

called session of the Thirty-fifth Legislature, shown on page 93 of the said special or called session, is hereby in all things repealed.

Section 6. That the sum of Twenty-five thousand (\$25,000.00) Dollars be and is hereby appropriated out of any funds now in the State Treasury, not otherwise appropriated, to be used by said Commissioners in making this transfer and otherwise carrying out the provisions of this Act.

Section 7. The crowded condition of the calendar at this time creates an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

SEVENTEENTH DAY.

Senate Chamber,
Austin, Texas,
Saturday, Sept. 22, 1917.

The Senate met at 8:45 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Petitions and Memorials.

There were none today.

Committee Reports.

See Appendix.

Bills and Resolutions.

There were none at this time.

Motion Pictures Permitted.

Senator McNealus asked for unanimous consent to have the shades above the chamber removed for today in order that there might be sufficient light in the Chamber to permit the making of pictures of the trial.

There was objection by Senator Hopkins.

Senator Westbrook moved the Sergeant-at-Arms be instructed to remove the shades from the ceiling of the Senate Chamber for the purpose of permitting pictures to be made of this trial.

The motion prevailed.

Special Rule for Impeachment.

Senator Lattimore offered the following:

To the Honorable Senators of Texas:

We, your committee on Rules respectfully submit for the approval of the Senate Special Rule No. 1 as follows:

When the argument of Counsel for each side shall have been concluded the Chair shall announce the Senate is now ready to vote upon the Articles of Impeachment and shall direct the Secretary of the Senate to read said articles separately and as each article is read shall direct the Secretary of the Senate to call the roll and as the name of each Senator is called he shall arise in his place and announce his vote as guilty or not guilty.

When all of said charges shall have been read and voted upon the Chair shall appoint a committee of three Senators to formulate and present to the Senate for its approval a formal judgment to be entered in the Journal and certified to the proper officer.

DEAN,
LATTIMORE.

The rule was read and upon ob-

jection by several Senators the same was withdrawn.

Motion to Postpone Hour for Court.

Senator Westbrook made the point of order that the hour for the convening of the Court had arrived.

The point of order was sustained.

Senator Page moved that the morning session of the Senate be extended for ten minutes and the Court postponed for the same period.

The motion prevailed.

Senator Lattimore made a statement relating to the proposed Special Rule above shown.

In the Court of Impeachment.

PROCEEDINGS.

Saturday, September 22, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

Hon. W. L. Dean, President Pro Tempore, presiding.

(Pursuant to adjournment, the Senate, sitting as a High Court of Impeachment, reconvened at 9 o'clock a. m.)

The Board of Managers and their Counsel were present.

The Respondent and his Counsel were present.

The Chair: The time having arrived for the convening of the Court of Impeachment, the Sergeant-at-Arms will proclaim the convening of the Court, and see that the rules with respect to those entitled to the privileges of the floor and the bar are enforced.

Sergeant-at-Arms (at the door of the Senate): Oyez; Oyez! Oyez! the Senate, sitting as a High Court of Impeachment is now in session.

The Chair: Mr. Hanger.

Mr. Hanger: Mr. President, I desire to make a statement in the nature of one of personal privilege.

Senator Gibson: Mr. President, I suggest that the Senator—

Senator Bee: Will the Senator speak louder?

Mr. Hanger: Just a moment.

Senator Gibson: Face the audience.

Mr. Hanger: Yes, sir, you will hear me.

Senator Dayton: Let's have order, gentlemen, we can't hear him unless we have order.

The Chair: Well, if the Senators and the members of the Court down here will help keep order, we can have it, otherwise we cannot have it. We want order today, and we must have it, and the Chair earnestly requests every member of the Court to assist in trying to keep order.

Mr. Hanger: I desire to make a statement in the nature of personal privilege. The remarkable statement appears in at least two of the papers on the desks of the Senators this morning that I am no longer of counsel in this trial. In the Austin American the statement is made that Mr. Cummings and myself are no longer of defense counsel. The unjustifiable part about it is that by simple inquiry, either of the Governor, Mr. Cummings, or myself, the falsity of the statement made could have been determined; but it is published as a fact with the manifest purpose of an attempt not only to injure the Governor, but to injure Mr. Cummings and myself by creating the broadcast impression that at this stage of this proceeding we would desert the Governor. I feel like those who know Mr. Cummings and me, whether they like us or not, will acquit us of any such unworthy promptings as those. On account of disinclination to prolong the discussion we saw yesterday afternoon that there was not sufficient time for all of us to argue this case, much as we desire to do it. Responding to the respect we felt for the expression of the members of the Court which reached us, we bowed to what was their manifest wish in the premises and made the agreement, which the Chair knows about, with counsel on the other side. I desire to characterize the publication as it deserves. It is nothing short of infamous and false in every particular, has no foundation, and was published without any due regard for the facts, without any investigation, and with a manifest purpose to do an injury. I have demanded myself, of the reporter of one of the papers, to know his authority. He declined to give it. But I want to make this statement, and to demand that a retraction be made as publicly as the false

statement has been made this morning, in the papers tomorrow.

Senator Bee: Mr. President—go ahead, Mr. Cummings.

Mr. Cummings: Mr. President.

The Chair: Mr. Cummings.

Mr. Cummings: I simply want to concur in what Senator Hanger has stated, and add this: that the dignity of this occasion prevents me from expressing my true opinion of the men who wrote the articles; but at another time and in another place I shall avail myself of the occasion.

Senator Bee: Mr. President.

The Chair: Mr. Bee.

Senator Bee: I remarked during the session yesterday that I thought it was a pity that we should limit argument in this case—in a case of this magnitude and of this character. I have participated, as have other Senators, in many trials of men for their lives and their liberties, and in capital felonies especially—and this bears a similarity to it—there has never been within my experience any effort to limit the argument that counsel might make. I am not going to make a motion at this time, but I want to suggest to those who advocated the limitation of four hours to a side, upon a question of the most tremendous moment and importance within the great history of this State, if we ought, in view of the statement made by these gentlemen, to render it impossible that these gentlemen who have been with this trial from its inception, acquainted with it in all of its details, should not, for the sake of time, Mr. President, that fleets and goes, time in which men go back to their vocations, and the result of this judgment will live in the history of this State, time because some man wants to get to a vote—I am going to ask the Senate, not in the shape of a motion—because I have no control—if it is too late to permit the gentlemen who have devoted themselves to the conduct of the trial of this case, to state to this Senate, sitting not, Mr. President, as a jury, but as the highest court known to any land—a High Court of Impeachment, these gentlemen should not be denied the opportunity because of a few fleeting hours to state to this Court their conclusions and their judgment as to the momentous issues involved herein. If it is not the wish of the

Senate that that be done, I pursue the inquiry no further, but I conclude by stating, that so far as I am concerned, regardless of the sacrifice of business and of time, this High Court of Impeachment ought not to differ from the rules that the district judges apply in their courts of free and unlimited argument of questions involved. If the Senate does not wish it that way, I place myself on record in advocacy of no limitation upon the time in which the gentlemen on either side of this question shall present their arguments.

Senator Henderson: Mr. Chairman, I would like to state to the Senator, my understanding was an agreement had been made among Counsel as to the time they desired, as stated this morning.

Senator Bee: I understand that perfectly, but I only wanted to make this statement.

Mr. Hanger: Mr. President.

The Chair: Senator Hanger desires to make a statement

Mr. Hanger: I desire to make a statement, that in making the statement I made, it was not intended in any way to alter the arrangement already made; two speeches have already been made with that arrangement and agreement in view, and it would not, as we understand it, be exactly appropriate, appreciating, as much as we do, the generous suggestion of the Senator from Bexar, that would not be appropriate with the argument practically half concluded, to change the arrangement entered into by agreement of counsel on the opposing side and ourselves on yesterday afternoon. It was only to make manifest to all those here, and to those who might know of these proceedings, and to those who have heard these proceedings that there had not been any cessation of the labor of love undertaken by us a few weeks ago.

Senator Page: Mr. President.

The Chair: Senator Page.

Senator Page: In view of what counsel stated, I would like to make this statement in deference to Mr. Hanger and Mr. Cummings. I desire to say that at the proper time I and other Senators here will propose to make an investigation, calling before us or this Senate, the reporters representing the different papers in this

Senate, and we will require of them to state to us the man who has made public this statement which Mr. Hanger has characterized as untrue—and which I accept as untrue, and thought was untrue when I read it in the paper. It would be improper for this Court now probably to do it, but later on we will do that, and it will be my idea to exclude from the floor of this Senate, in so far as we may, the reporter who has so offended and who made that statement, and let him give the facts, or give us his informant, and if he gives us the name of his informant, we will deal with him as we can. I desire to make that statement.

The Chair: All right, gentlemen, with those explanations, are you ready?

Thereupon, the Respondent,

JAMES E. FERGUSON,

addressed the Court in his own behalf, as follows, to wit:

Mr. President and Gentlemen of the Senate:

A long time ago, when I was a school boy, I remember to have read a little rhyme that read something like this:

"It is easy, when destiny proves kind

"With full spread sail, to run before the wind

"But those who against stiff gales would careering go

"Must be at once resolved and skilful too."

So, this morning, as I appear before this august body, and as I appear as the chief actor in this momentous proceeding, in which not only you, under your official oaths are deeply concerned, but throughout the confines of this great State, and the great yeomanry, and the great people who cause us to say that we have got the greatest civilization and the greatest State in the Union, they, too, are interested in the results of this trial and the effect upon history which shall come after us; and realizing and imbued with the deep solemnity of this occasion, I appreciate the great necessity not only of not trying to deceive you, but of not trying to deceive myself. I think I appreciate, my friends, what I am up against, just the same as you do, and I arrogate

to myself no particular qualification of intelligence by stating that fact, because he who runs might read. For the last few weeks the plain issue and the plain result that weeks ago had been intended and designed by some; and if this Senate shall not carry out that intention and that design, then the great interests in Texas will be very much disappointed, and in their opinion a great mistake will have occurred. I say this devoid of all bitterness. I realize the condition and you realize the condition under which this accusation has been brought against me, and you understand, and I know you understand, and I want you to know I understand just as much as you, and I understand the conditions. In my younger days I might have given away to temper and permitted myself to become excited and moved to exclamations of bitterness and epithets, but as we grow older, you know, we become nearer being philosophers, and this morning, notwithstanding that I know the verdict that you are going to write, whilst there are some phases about it which I might regret and you would regret if you were in my position, yet, let us not deceive ourselves. History is not so much, my friends, the recording chronologically of this or that fact, but it is in determining the influence of this fact or that fact upon the age in which it occurred, or posterity which will feel its influence in after years. And so, my friends, this morning, let us dismiss, if we may, the personal equation involved, let us decide this question and consider it as men ought to consider it; it is only by that means that you can perform your duty to yourself, or that I may discharge my duty to myself. What are the conditions which confront your Respondent at this time? If a man down in the Travis County Court should be tried, if he should be charged with a crime against the laws of the State, the Court sets the day when he should reply and answer the charge against him.

The Chair (interrupting): Governor, will you wait a minute, please sir? Mr. Sergeant-at-Arms, I wish you would station somebody outside that door and see that we have no noise out there. Eject those boys,

or men, or whoever they are, that are making the fuss.

Governor Ferguson (resuming): The day of trial would be set, and the defendant would appear, and when the case was to be considered it would be ascertained from judicial knowledge that the crime for which he must answer had been previously defined by the legislative body of this State. The way in which the jury should be selected would be ascertained from the books previously enacted into law, and the manner and the mode of admitting the evidence would be prescribed with judicial certainty; and when that was read, the exact crime with which he was charged would also be defined with judicial certainty. There could be no mistake about what would constitute the crime for which the defendant must stand trial. The law previously would not have left that to doubt or to conjecture or to discretion; but the crime and what constituted the crime would have been determined—previously determined and defined, so that there could be no mistake about the charge which the commonwealth of the State was asking the defendant to answer. When the law was read it would be further ascertained that the means and manner and the mode of trial equally with the same precision and with the same solemnity had been determined by the law of the land. The qualifications of the jurors who should sit upon the case would have previously as judicially certain been made and determined as constituent elements of the crime itself. When the jurors once file into the jury box, the humblest citizen of this land would have the right by his counsel to say to each member of the jury, and require his answer under oath, "Have you any bias in favor of, or prejudice against the defendant?" And if the juryman answered "Yes," would immediately say that, "You are disqualified to pass upon the merits of this case, and you will be excused." And if it should be further ascertained that any man in the jury box during the pendency of the trial had talked about the case and had expressed what his verdict would be before the case had been concluded, the judge of the court would have the right, knowing that most judges would

exercise that right, to call the juror before the bar of justice and administer some punishment for contempt. I mention this to show you with what certainty, with what solemnity and with what supreme respect for the rights of the citizens, the courts and the legislative body of the land have provided, that every citizen might enjoy a fair and impartial trial upon the merits of his case. Every citizen of the land has the right guaranteed to him and given to him, and every man charged with crime throughout the confines of this State enjoys the privileges of those rights guaranteed under the laws and Constitution of the State, except one individual, and that is the Governor of the State on trial for his official position. That leads me to what the lawyers have been saying in your midst about the right of this Senate to try the Governor of this State. Ah! it has been said, and will be contended hereafter, that this is not a criminal case. Yet, my friends, if there was any doubt about it—about whether this is a criminal case or not, every fairminded man must yield that contention when he heard the special rule sent up by the Senator from Tarrant this morning. The rule was that when this argument is ended each Senator shall be required to rise in his seat and vote what? "Aye" or "Nay?" No. "Guilty" or "Not Guilty!" Should there be any doubt in the minds of any fairminded man that I am on trial as a criminal in your presence? If that was not true, why was it necessary for this Court, in order to write out its verdict, to have a simple rule passed, that it was "Guilty" or "Not Guilty?" Ah! there is the crux in the whole argument! The laws of this State have provided that for every citizen of the land, except the Governor on trial for his official position, the form of the verdict shall be "Guilty" or "Not Guilty," and yet the Legislature has not given nor guaranteed nor provided that right to the Governor of this State. And so, as I say, it brings us by an object lesson, as it were, to the conditions under which I am being tried before this Senate. You guarantee, the law guarantees to a negro crap-shooter, it guarantees to a negro boot-legger, it guar-

antees to the veriest criminal in the land, a full definition and a full description of the crime upon which you are going to try him for his liberty; and yet, I defy General Crane, upon his time coming to speak to this Senate, to put his hand, to put his finger upon any crime for which the Governor of Texas may be impeached! It does not take a lawyer of any great ability to see that proposition. Here I am put upon trial for an office which all the courts of the land recognize as private property, just the same as owning a farm—it is property, just like anything else, with the constitutional provision guaranteed to me, as well as to you, that I shall not be deprived of my property without due process of law.

It now appears that I am on trial for my property without any process of law ever having been provided, without any manner and mode of procedure having been provided, without any definition of the crime aforesaid having been provided. I am here to be tried for the highest office in the land in the face of the fact that the Legislature, notwithstanding the Constitution provided that it should do it, has never yet performed its duty of providing a manner and a mode or the causes for which a man may be impeached in Texas. Senators, the Constitution says, "The Legislature shall provide by law for the trial and removal from office of all officers of this State, the mode for which have not been provided for in this Constitution." You find that everybody else has had a way fixed whereby they can be tried and the causes for which they may be tried, but nothing left for the Governor. Why, I want to call your attention to Section 24 of Article 5 of the Constitution: "County judges, county attorneys, clerks of the district and county courts, justices of the peace, constables, and other county officers, may be removed by the judges of the district court for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing, and the finding of its truth by a jury." Lawyers of this Senate, I want to put to you this question: Can you put your hand upon the provision of the Constitution or of the Statute defined by law for which you could impeach the Governor of this State? If you can not do that, then,

my friends, you are recreant to your oath if you undertake to exercise the power or discretion not permitted by the Constitution of this State. And let me say right here, I am not going to appeal to passion or prejudice or to sympathy. If I should appeal to passion and prejudice, that might cause you to lose sight of the main issue in this case. If I appeal to sympathy, that would be the exercise of a right which I have not and will not urge upon any Senator. I want to appear in the language of the Roman statesman who said that in matters of right there was not one law for Athens, there was not another for Greece, there was not another for Rome, but for all men in all ages and all times there remained the eternal law of justice, and I appeal only to that law. If you, in the exercise of your oath, convict me and find me guilty of a crime not defined by law or by the Constitution, then you have denied to me simple justice, you have denied to me the same right that is guaranteed to the most humble citizen in the land and the veriest criminal in the land. Let them put their finger upon a single cause which the Constitution decides shall be cause for impeachment. Now, they will say, well, I have been guilty of this and I have been guilty of that. All right. Let's see if the Constitution says that is sufficient ground for impeachment. Section 8 of Article 15 provides: "The judges of the Supreme Court, Court of Appeals and District Court, shall be removed by the Governor on the address of two-thirds of each house of the Legislature"—for what?—"for wilful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause"—listen—"which shall not be sufficient ground for impeachment." Now, catch the four causes; neglect of duty, incompetency, habitual drunkenness, oppression in office. They do not charge me with habitual drunkenness, and of course that is cut out. Now, then, neglect of duty. All right. Let's say for the sake of argument that I neglected my duty. Incompetency. Let's admit for the sake of argument that I am incompetent. Oppression in office. Let's admit for the sake of those who would find some satisfaction in the charge that I have been oppressive in office. And yet, Senators sworn to uphold the Constitution, are you going to say

that I shall be impeached for that ground—upon those grounds—when the Constitution says “or other reasonable cause, which shall not be sufficient ground for impeachment.” Neglect of duty, incompetency, and oppression in office will include every charge that has been filed against me by this Court. And yet, in the face of that, the Constitution of this State says that it is not sufficient ground to even remove a judge from his position on the bench. Yet you want to take the Governor of your State, when your oath to uphold the Constitution of the State binding upon you as well as upon me, when they have said in unmistakable language, that it is not sufficient ground for impeachment, you are being asked to write a verdict to put the Governor of this State out of office in the absence of any provision defining a cause for which the Governor may be impeached, and in the face of the express provision which says that the things they charge me with are not sufficient grounds for impeachment. Ah! my friends, you brush aside the passion of the hour, you brush aside the sentiment that has been fostered here, you brush aside the pressure that has been brought to bear, and divest yourselves of all other influences save that of your oaths to try impartially this case, this case would not last five minutes on a proposition that the Constitution itself in unmistakable language has declared that everything that they have charged me with are not sufficient grounds for impeachment.

But I must pass on. I want to discuss with you in a simple way, in a plain way, in a candid way, the charges which have been brought against me. I realize that this is no time for a display of temper. I realize the gravity of the situation, if you please, that confronts me, and I realize that if I am to be exonerated by this Senate it will be only in appealing to the heart and conscience and mind of every Senator who is willing to divest himself of every passion or prejudice or sympathy, bias or prejudice which he may have in the case, and appealing to the fairminded man who is seeking for the truth, who is willing to put his hand upon his heart and say that “My verdict upon this charge or that charge is one which my conscience alone permits me to render.”

Now, my friends, before I go into the discussion of the charges I want to call your attention to one astounding statement that was made yesterday by the counsel for the Managers, and I know you heard it and I know you must have thought about it, but I again want to call it to your attention, because it is the crux of the whole argument in this case. Mr. Harris told you yesterday—listen, refer to the stenographer's report to see if I am not correct, said, “We are not asking the Senate of Texas to impeach the Governor because he did not appoint another man in Frank Swor's place. We are not asking the Senate”—and he said, “I admit that is not sufficient ground to impeach him. We are not asking the Senate of Texas,” he said, “to impeach the Governor because he would not tell where he borrowed the \$156,000. We are not asking the Senate of Texas to impeach the Governor upon the ground of that fifty-six hundred dollar item. We are not asking the Senate of Texas to impeach the Governor upon any one count, but it is upon twenty-one counts piled up like stove wood. We are going to establish a grab-net machine here and admit as we do that none of them are sufficient within themselves; on general principles we are going to say that the Governor of the State ought to be impeached.” My friends my personal equation in this matter need not be considered. Men come and men go; nations come and nations go, but principles live forever. It is upon the principles of right and wrong that civilization has been handed down to this day and this time, a civilization founded upon right and upon wrong. You establish the principle that the Governor of this State may be impeached upon general principles and suspicion, then you may put me out of the office. That may or may not be any matter of consequence. But once you establish that rule you deprive—thwart the very will of the Constitution which divided the government into three branches: executive, legislative and judicial—and the idea of checks and balances so much fostered and believed in by our forefathers will have been brushed to the winds and no man will be safe in the Governor's office except by the whim of the Legislature which he must serve. Those are facts, whether you acquit me or not, it is a

matter of no consequence to me. I am here to call your attention to the fact, not for my personal ambition, because that may be brushed aside; I have the right to call these attentions to your mind and conscience, then, if you brush it aside and say that "I will not be bound by that rule of right and wrong; I will not be bound by the provisions of my Constitution," that becomes no more a matter with me, it is a matter with you and your conscience to be settled with you and your God.

Now, my friends, let's discuss the issues. The first charge is that there was paid from the funds of the Canyon City Normal School deposited with the Temple State Bank on August 23, 1915, a note of \$5000 together with \$600 interest due by James E. Ferguson to the First National Bank of Temple, Texas; that said amount has never been refunded to the State of Texas; that in part payment of the total due for the building of the Canyon City Normal College he used other funds, a portion of which belonged to the State of Texas and the balance in his hands as Governor and deposited to his credit as Governor in the American National Bank, which act constitutes a violation of law. If there is a Senator in this Senate of any known legal ability who would claim for one minute that the allegations in that statement would support an indictment or an information against any defendant, then I mistake the judgment and the legal ability of any lawyer of any known ability. It does not charge me with any crime or any bad intention. They say it constitutes a violation of the law. Then let them say what law it is. But let's waive any technical defense. I want to brush it all aside and state the proposition that should control your verdict upon that ground—upon that charge—and that is: "Did the Governor of Texas intend to steal \$5600 or \$600 or any part of that sum?" I throw down the gauntlet and I say that that is the issue for you to determine. If you believe deep down in your heart as the result of your honest conviction that I as the Governor of the State intended to steal or convert to my use and benefit any part of that sum of money, then I release you, whether you have been my friend or not, to vote to

sustain that charge—from any obligation to me—and if you believe that, why, then you vote to sustain that charge. If, on the other hand, you have any doubt about it, if you do not believe the Governor of the State intended to steal \$5600 or any part thereof, then you violate your oaths to your God and to your country when you place a stigma upon my name and vote to sustain that charge, and the issue is one plainly to be determined, whether it was theft or not—I mean whether embezzlement or not, because we admit it was rightfully in my possession. Now, then, let's see if I intended to embezzle that amount of money. When a man goes out to commit a crime he considers, if he is a man of ordinary intelligence—and without any spirit of seeking to brag, I believe I might with perfect propriety, without transcending any rule of modesty, claim that I am a man of at least average intelligence. Therefore I say when a man of average intelligence goes out to embezzle a sum of money he considers the crime, he considers not only what he is about to do, but the main thing he would naturally consider would be the probability of escaping detection and the matter being found out. Now, then, take that rule and apply it to the fifty-six hundred dollar item. I had given Governor Colquitt my receipt for every dollar of the Canyon City fund. Bad man as I might be—and some of them would have you think I am—certainly I could not have been so foolish to have thought I might use that money to my permanent use and benefit without being found out. It is ridiculous, and you know it as well as I, that I for a minute could have thought that I could have escaped detection, with a receipt behind me on one hand, and the building about to be completed and the money being called for on the other. It is absurd to think any reasonable man could have hoped, bad a man as I might have been, could have hoped that he could have escaped detection and that a crime could have been successfully committed. So that is the issue in that fifty-six hundred dollars. It is not a question of book-keeping. Certainly the Senate is liberal enough that you would not impeach the Governor of this State because the books had not been kept

straight. But, again, the charge ticket—now, if I was going to convert the money to my own use and benefit, do you suppose that I would have been so foolish as to have instructed the Temple State Bank to charge my personal note to the Governor's account and to have put on the very charge ticket itself that it was for the note which I owed the First National Bank of Temple and had them to make a record of it and send it down to me in Austin? Gentlemen, if you will brush aside passion and prejudice, you are bound to admit that the very way and the manner and mode in which that transaction occurred would convince you that it was simply a mistake, an erroneous mistake and an honest mistake. Why, if I had wanted to put that money to my use and benefit all I would have had to have done to absolutely cover it up so nobody could have told anything about it would have been to have gone to the counter of the Temple State Bank and issued my check as Governor for the amount, put it in my pocket and used it as I desired until the time came to pay it back, and nobody could ever have known anything about what purpose the money was used for. You know that, gentlemen, as well as I do, and that accounts for the astounding statement made by Mr. Harris and the frank admission made by him. They are not asking you to impeach your Governor upon the ground of that fifty-six hundred dollar item alone, but because it is a part of a junk pile they want to unload on you, they say that you ought to impeach the Governor.

Now, my friends, you are not going to agree to any such proposition that you can consider that altogether. They won't let you vote on them all together. The rule, it is recognized, that you have got to come into court and arise in your seat with the obligation of your oath before you, and vote upon your consciences, whether this charge number one is sufficient, whether I am guilty or not guilty. And if you determine in your mind that that one indictment is not sufficient, you have got no right to vote guilty upon that charge, because you might think I have been guilty of some other wrong in some other proposition. You know that that

admission would put them out of court in any criminal proceeding in this country, when a man would admit that the proof was not sufficient upon any one count of the indictment to have a conviction upon that count. Now, my friends, they say that the money was never returned to the State of Texas. I asked them this question, if the \$5600 has never been returned to the State of Texas, then where is it today, in whose possession is it, who has got it and who owed it to the State; if the State has never received the \$5600 back then someone else must have it. All right, you say the Governor has got it. All right, put your hand upon the obligation to say I have it; put your hand upon the proof that shows I have it. You can't do it, and when I came to settle with Governor Hobby as Acting Governor of the State, and turned over to him funds in my hands, if the \$5600 has never been returned to the State, then it was my duty to turn it over to him, it was his duty to demand that I turn it over to him—that \$5600 was still in my possession when I was still Governor of the State and settled with Governor Hobby. When I filed my answer here and said I didn't owe the State of Texas anything, then counsel would have had the right to file a charge and say, no, your statement is not correct, you have still got \$5600 of the people's money in your possession, give it up. Oh, this \$5600 item that has been clouding somebody's mind, the very time that this charge was filed, was paid back to the State, and paid to whom? It was part of a fund belonging to the Canyon City Normal fund. Nobody denies that up to the time that deposit was made, that any other than the Canyon City fund had been placed in the Temple State Bank, and when the final money was paid, \$101,607 was paid to the State, then every dollar of the Canyon City money was returned to the State, and this charge that said money has never been returned to the State must be incorrect and there is not a scintilla of evidence to show but what it is incorrect. Listen, when I settled with Governor Hobby I turned over every dollar in my hands. They don't question and won't question that there is another nickel remaining in my hands except for the following

purpose: "Received of James E. Ferguson, formerly Governor of Texas, the sum of \$4693.49," listen—"same being \$1546.85 to the credit of the King's Highway Fund, \$30.60 to the credit of the Storm Relief Fund, and \$3116.40 to the credit of the Texas National Guard Funds, now in the hands of the said James E. Ferguson, and same is received"—listen—"same is received by me, Acting Governor, from the said James E. Ferguson." A clear receipt for every dollar that ever came into my hands as Governor of this State. The \$5600 paid back to the State in April last year; no fund remaining in my hands except these funds for which he receipted me, but they say I did not turn it over to the State. Now, listen: it is admitted that the King's Highway Fund and Storm Relief Fund was private money. No man has contended or will contend, or can contend that it is a part of the State money. Therefore, I could not be convicted for not turning that fund over to the State. Oh, but they say there is \$3116 National Guard fund. It gets back to the same proposition; did the Governor of this State intend to steal any part of that fund, or embezzle it, or put it to his use and benefit? Now then, I told the Legislature in January of this year, reported to them that I had this money and in March when I was upon the stand I told them again about it. It was a matter of discussion and within the knowledge of everybody. The Legislature did not direct what should be done with the fund, therefore what could I do with the money but keep it? I could not throw it in the creek, I could not put it in the Treasury, because there was no fund to which you could put it. You couldn't put it in the Highway or the Storm fund because that was private facts about the \$5600 item.

Now, the next charge is that I had \$101,000 of the Canyon City fund; that I applied it to my own use and benefit in that I deposited part of it in the Temple State Bank. Now, my friends, I want to call your attention right here to facts that certainly bear upon the question of whether I wanted to profit out of that money. When the first deposit was sent to Temple, opening up the Governor's account, I had the secretary to write a letter and which was

exhibited here after an attempt to withhold it from your information, had been made, stating "I simply want you to keep this money on deposit, don't you undertake to make any loans on account of that deposit," meaning of course not only that deposit but the rest of the items which made up that deposit. If I had wanted to profit by it certainly I would not have written that letter to my own private bank telling them explicitly not to loan any money against that account. But they say I did not put it in the Treasury. There is the great issue made in this case. I can deal with all the other charges in reference to the Secretary of State, in reference to the Commissioner of Insurance and Banking, in reference to this fund I can treat that question altogether, and in the interest of time I will do so. Now, they say that I should put it in the Treasury, and they say that I violated Article 96 of the Criminal Code, which provides—listen! that any agent of the government who is by law a receiver or depository of money, or who shall fail to put money in the Treasury when it is open, shall be guilty of a felony, with such and such a penalty. Now, then, as I say, here is the great crime: when I came to Austin what did I find here? I found, as I stated in my testimony, and it has not been denied in any particular here, that for twenty years nobody had paid any attention to the statute—because, why, the Supreme Court, the Attorney General, the Secretary of State and the other officials who as incidental to their duties came into possession of money were not by law receivers or depositaries of money, and therefore that act could not apply to them; the receipt of their money was only an incident to the other duties of their offices. Therefore, even though for the sake of argument it might be considered it had been wrongfully done, as long as it was done by an officer of the government—unless it was done by an officer of the government who was a receiver or depository of money it could be no violation of law. But, oh, they say, I ought to have kept the Secretary of State from putting that money in any bank, and that shows just how unreasonable the charges are. They contend in one breath that I ought

to be impeached because I undertook to tell the Board—suggest to the Board of Regents what it should do, and in the next breath they say I ought to be impeached because I did not tell some officer of the government what he should not do; in one breath they say it is a crime to try to suggest to the head of a department what he should do; in the next breath they say it is a crime and you ought to be impeached because you failed to tell some fellow what he ought to do. The whole proposition is, this whole charge and this whole thing is founded upon one fact, that I put that money in a Temple bank and not in an Austin bank. I wouldn't be on charge here today if the Austin bankers and the University crowd had not got together and said, "This man won't do; he has come down to Austin here, he has undertook to exercise the rights given to him under the Constitution to inquire into what we are doing out at the University; he has undertook to say that this right which we have so long enjoyed here in Austin to have all the people's money for our use and benefit can not continue; we can not have any such usurper of our sources of gain and profit." Then they begin to get together, and this thing began to start. That is the whole crime. It does not make any difference, gentlemen, whether I owned stock in that bank or not. It is back to the simple question of whether I had the right to put the money in the bank until such time as it was required by law:

Why, you say that that is a crime because I had stock in the bank. Nobody ever considered it so. The University itself, as the record shows, had on deposit with the American National Bank in Austin an account running for four long years, and I stated that I had been informed that it had been running for ten years before that, and that was not denied, showing what? That they had an account there running never lower than \$38,000.00, and up to as high as \$157,000.00, a continuous account that the University people had had for four long years, and nobody ever got together and concocted a plan to indict somebody or impeach somebody for putting that money into the American National Bank of Austin without interest. It is a great crime to put money

into the Temple Bank, but a member of the Board of Regents, Major Littlefield, who owns only, not one-fourth of the stock in the bank, like I did, but who owned the controlling interest in the American National Bank, in Austin, he is permitted to do that and is held up as a great citizen when he takes the money of the University and puts it for four long years in his bank, without interest, a continuous and profitable account. And yet, because I, owning a minority of the stock in the bank for no account and no profit, put for thirty or forty-five days a large deposit in the Temple State Bank, a great idea of right and wrong gets into the minds of some people and you are here called upon to rend in twain the character and reputation of the Governor of Texas for doing a thing which the University itself has done for these long years. And yet, some of you are going to do it; you haven't got the nerve to stand up in the majesty of your manhood and say, "I will not make flesh of one and fowl of the other." You haven't got nerve enough to say, you are not fair enough to say, that what one man has done is no more a crime than what another man has done! The man owning the majority of the stock of a bank, Littlefield's bank, \$157,000.00, an average balance of \$185,000.00 for four years, without interest, a great citizen, a member of the Board of Regents, honored and respected by them, and held up to the citizens of Texas as a great man! And yet, Jim Ferguson, a criminal, a felon, that ought to be rended in twain, to satisfy the passion and prejudice of the hour, simply because \$250,000.00 stayed in his bank for forty-five days! Ah! your case would not last thirty minutes if the passion and prejudice and politics that are in this case were brushed aside and this case were tried upon the oaths of men who would seek to do their duty between man and man.

And that brings me to the big question, the University. There is but one question in this whole controversy. Why, when John McKay was indicted down here and he told some of his friends that he considered it an outrage, he was told that it was but an incident to the University question, and because the Governor had vetoed the University appropriation bill. This very same paper, the Aus-

tin American, that this morning printed that statement, that infamous calumny against the character and good intentions of my friends, stating that they had broken faith with me, that they were no longer my friends, the Austin American, which printed that infamous misstatement, had told the people of Austin, as their mouthpiece, what this great issue was, and I want to read it to you. Under date of August 26th, Sunday morning, headed, (reading):

"The University Triumphant.

"Lieutenant Governor W. P. Hobby is now Acting Governor of Texas, and Governor James E. Ferguson stands suspended and is out of office pending his trial by the Senate on twenty-one articles of impeachment adopted by the House of Representatives after an investigation lasting over three weeks. The trial in the Senate will begin next Wednesday. The investigation and the causes leading up to it have been thoroughly discussed and are well understood, and the results obtained by the official vote in the House and the presentment of the articles of impeachment to the Senate have brought to the people of Texas a victory,"

Listen—

"And the presentment of the articles of impeachment to the Senate have brought to the people of Texas a victory of such vast importance that they can afford to ignore any criticism the outside world may make. They have saved their University, and that was the big question involved."

Involved in what? In the presentment of twenty-one articles of impeachment against the Governor of Texas. That was the big question involved.

"The Austin American believes, and so stated at the beginning of the investigation, that barring all other questions involved, impeachment proceedings would follow, that that was the only way in which the appropriation sufficient to maintain the University for this next two years could be obtained."

The Constitution stood in the way. It had been legally vetoed, and the only way in which they could get the money with which to continue their unholy spree of an educated hierarchy out there, was to rend in twain the Governor of this State and bring his fair name and the name of his

family, articles of impeachment—not because of a matter of policy, but because of a matter of appropriation; not because of any right or wrong, but because of weighing of so much gold against human happiness, so much greed for lust and profit against human character,—that was the big question involved and that was the only way of securing an appropriation sufficient to maintain the University for the next two years. It was of no consequence to them, and, as Mr. Harris said, that out of twenty-one trials added, they could not put their finger on a single item that they thought was sufficient to impeach the Governor—but that was the only way that they could get money, money, money, the root of all evil.

(Laughter in the galleries).

The only way that they could do it was to rend in twain the Governor of the State!

The Chair: If we have any repetition of that (referring to laughter in the galleries), the galleries shall be cleared.

Senator Hudspeth: It certainly ought to be done, Mr. President.

The Chair: It will be.

Senator Hudspeth: This is not a vaudeville performance, and those people ought to understand it, sitting in the galleries.

The Chair: The Chair warned all the visitors yesterday that we will not tolerate any sort of demonstration. I repeat the warning now, and will not give it any more.

Governor Ferguson (resuming): And so, my friends, the article goes on:

"When the articles of impeachment against Governor Ferguson were filed in the Senate, he was automatically suspended from office, and the Lieutenant Governor became Acting Governor. The Senate sometime ago passed the appropriation bill, providing funds to maintain the University. This measure is now in the hands of the Committee on Appropriations in the House, and will be reported back when the House reconvenes, and will be promptly passed, Acting Governor Hobby will approve it, and the doors of the great Texas institution of learning will open as usual, at the beginning of the fall term. There is no necessity now for dwelling on the sidelights of this investigation or the personal feeling engendered. These could

have been of but minor importance as compared with the one real great question for which the people of the whole State are working for the preservation of the University and are taking it out of politics."

And so, in the destiny of men, it has been decreed by fate that I, as Governor of the State, shall suffer the penalty in order that the gold and the money may be given to those who desire to perpetuate the University. And what kind of a University? Nobody has said, nobody did say up to sometime last year that I was not a friend of the University. I said in my platform, away back yonder in 1913, "I am heartily in favor of any legislation looking to the improvement and advancement of our public schools and the A. and M. College, and our State University. In the matter of appropriations for such purposes, I would only be restricted by the ability of the State to pay and an economical expenditure of the public money." What Governor in Texas ever had the nerve to stand up before the people of Texas and say that the limit for which educational appropriations should exceed should only be controlled by an honest and economical expenditure of the public money. "If we get our money's worth, let us buy all the education we can pay for, and let us begin with the little schoolhouse on the country road."

There was the trouble. In my message to the Legislature of this year, I further stated: "I am in favor of liberal appropriations for the support of our university and colleges, but for every dollar appropriated for such purpose there should be at least three dollars set aside for the aid of the high schools in the towns and the graded schools in the country."

There is where my undoing started, that is the great crime that I committed. You gentlemen, if you must lay aside your oath for a minute, if you won't decide this question upon the merits of the case, then I want to suggest this to you: That when you go home to your people whom you represent in this Senate, give them an account of your stewardship. I want you to decide for yourselves the question of whether you were with Ferguson upon the proposition that for every dollar that you give to the University you have

got to give three to the country schools and the high schools of the country. You cannot escape that proposition. The people are going to demand that you, as honest men, representing them, have got to stand up and be bold enough, brave and honest enough to say whether you are for or against that proposition. I make my bed, and I say that it even ought to be more than three dollars. You have got to get on one side or the other. You vote to impeach me as Governor of this State, and when you go home you have got to be honest enough to tell the people that the big issue involved was the University, and the Governor said he wanted to give three dollars to the country schools and to the high schools of the country, to one dollar to the University, because I disagreed with him, I voted to impeach him, and I have come now to ask you to sustain me upon that record. Oh, but you say that that was not the trouble! I will prove it, I will prove that that was the only issue, and that that is where the trouble started, and I will prove it with proof that is convincing, even as the sacred obligation of the testimony in Israel. Listen: When the student mob waited upon me down here, they held a meeting out on the campus of the University, and they sent down to Leon Springs to get the President of the Students' Council, a member of the Legislature, to come back to Austin and make the key note speech, which would represent the minds and the sentiment and the spirit of the University powers out there. Here is what he said: "In the speech made on the campus previous to the parade to the Capitol, by George Peddy, a member of the Legislature from Shelby County, and now a member of the Training Camp at Leon Springs, as reported by the Austin American, we find one of the real reasons for this fight,"—

Now, listen:

"The Austin American says,"—

You can't discredit them, because there has been no time for the last three weeks when you read that paper in the morning that it has not said something, either by implication or in express terms, against my private record, or against me in some way or other. Listen here is what the Austin American account says,

and I put this in the veto message; it has never been questioned by anybody, I swore to it over in the House with George Peddy looking at me as close as Mr. Cope there, and he did not deny it, and no member of the faculty of the University has ever denied it—and this fact stands uncontradicted before the people of Texas. Listen:

"In a strong voice, keyed to the situation, Mr. Peddy began by saying that he and the Governor had met on the floor of the House in the discussion of University matters before. He thanked the students for having elected him as President of the Students' Council and said that the present moment was the most critical in the history of the University."

Now, listen to this:

"The fight started, he declared, when the Governor began his rural school campaign and appealed to the people of the State in a prejudicial manner."

Ah, they would give \$50,000 out of their Ex-Students' Association down here if they could recall that statement. They hushed his mouth up right there, and he never was after that time permitted to speak in the House of Representatives, or anywhere else. That fellow had "spilled the beans" for them, he "let the cat out of the wallet;" so the trouble started when Governor Ferguson came to Austin and said that he wanted to give three dollars to the country schools and to the high schools of the country for every dollar to the University. So, you can begin to see why the Austin American, in its editorial said that "The one big question involved in the impeachment proceedings was the University appropriation. Ah! my friends, when I came to Austin, elected on that platform for liberal appropriations for the University, and when I had approved that appropriation for \$711,000 a year, nearly twice as much as any Governor had ever approved for the University, the people of Austin thought I was the biggest man that ever sat in the Governor's chair, and, notwithstanding I had never been past the sixth grade in school, they gave me banquets, they wined me and dined me and introduced me as "The Great Educational Governor;" as long as I would give them money to carry on that unholy aristocracy out there,

which they are seeking to perpetuate, I was a great Governor, and I ought to be worshipped and bowed down to; but when in the exercise of my duty as Governor I said I wanted to know "What are you doing with this money, what are you going to do with it, and what have you got to say? Why are you giving \$300 to the University student, and only fifteen dollars—seven and a half dollars for the boy in the country?" Then they begin to revolt, and the one big issue, as the Austin American said, was the impeachment of the Governor. And that is why I stand before you today, like Daniel in the lion's den, with those people clamoring for my destruction, because I have raised my voice in behalf of a million and a quarter school children in Texas! Why, my friends, I said the University was extravagant, I say so now. Why, they have got a paid salaried employe, as the record shows, of one paid salaried employe for every eight students at the University, costing the State of Texas an average of \$1338 per annum. I call his attention to that fact, and then the impeachment proceedings began to grow stronger and the Ex-Students began to meet, they began to deposit their money, as the record shows, down in the American National Bank, and the sentiment began to grow, because I did not have any money to raise, to answer, to fight the thing back with, if I had wanted to, because I stood by myself, as Governor, upon my record, and with no great bank account behind me. The sentiment is rampant around Austin demanding that the Governor be impeached. Ah! but my friends, you can impeach me, yes, if that is any personal satisfaction, all right, but I have got the satisfaction, the consciousness in my heart, that I have raised my voice in behalf of the great yeomanry of the great State, and, as Lamar said, the diffusion of knowledge, that knowledge that everybody could get some of, because I said that a few favored people down at Austin are getting more than their share, and, as the Austin American said, the one big question was, because the Governor had sought to raise this question, therefore, impeachment proceedings followed.

Ah! I said in my platform, "Let us begin at the little country

schoolhouse by the side of the road." They are the people that you have got to answer to when you go home—the honest people that make the wealth of this country, that live out in the country, that great band of citizenship, who neither sits in the seat of the scornful, who neither hurl the cynic's ban, but who prefer to live in the little house beside the road, and to be a friend to man, they are the people that are sustaining me in this fight, they are the people you have got to answer to when this great controversy goes to the people.

Oh, it is a question of whether it shall be a democracy or autocracy, whether a few people shall say that "nobody shall inquire into us and we will impeach any Governor that has the nerve or the honesty of purpose to say that he shall go thus far and no further." Oh, but they said yesterday, that "if you will resign, the thing will be dropped." I would rather be impeached a thousand times than by any admission or act of mine to say that I had ever been thwarted from my purpose, stated in that platform of 1913, to raise my voice in behalf of the 110,000 school children in Texas who had never crossed the threshold of a public school. Oh, General Crane will tell you that I committed a great crime against the boys and girls out at the State University. My friends, they committed the first crime after they had been fostered and supported by fabulous amounts from my administration, which were seven and a half times more than the average that had been appropriated to the University for thirty years! They then wanted more, and because I wanted to discuss with the Regents what we should do with the money, not only the students, but the faculty of the University attended the meeting, and in less than a hundred feet of the President of the University they marched down to the Governor's office, who was not bothering them, but who was in his office talking to the University Regents in whom the Constitution had placed the power or the government of that institution, and with a defiant attitude, as Mr. Butler has told you, shaking their fists at the Governor, making faces at him, yelling at him, and they tried to intimidate—but it didn't work. I have got my con-

sciousness, I have got my satisfaction and I have laid down the precedent that no mob, though it may be organized on the University campus, can in the future come down to the Governor's office and tell him what to do. A mob that is organized at the University, is just as much a mob, just as much in defiance of the law as a mob that is organized in a back alley or some secluded place in town. Ah! they say that the Governor of Texas, because he is Governor, shall be held to a higher standard than anybody else. And yet, those young men out there, having had the advantages of a free school education, having been given the privileges of a University, they say that by this action of theirs, that they, in future, shall have the right to organize a mob and go down and wait upon the Governor and make him do what they want him to do. That is the issue you have to decide before you vote to impeach me. You want to be able to go home and tell your people that if you had been Governor and a mob had waited on you, that you would have had the nerve to say, "I defy you now, and I will cut your appropriation off right here." But whenever you take from the power of the Governor and instill in his mind a fear that he cannot do that, then every Governor will be waited on by a mob for forty years to come, because they will say, "We put it over Ferguson, and we will put it over every other man."

Ah! but they say I made unlawful and unfair criticisms against the University. Listen: I want to call your attention to what were some of the things I said. They said that I said some of them were liars. All right. I said that. Are you going to impeach a Governor for that? On the floor of this Senate I have heard men called liars, and yet nobody would think for a minute that someone might be impeached. They said that I said that they were grafters. They admitted that they went and changed a voucher to get \$19.00 out of the public Treasury! The amount of money cuts no figure. Why, you talk about applying your rule to some fellow in high station being expected to deliver more, and that more can be expected of him than you can of one in lower station. What do you think of a President of

the University who admits, and the record is uncontradicted, that he went in to the Auditor and says, "You are to change that voucher and change the facts," in order that somebody might get \$19.00 out the public Treasury, that they admit now that they were not entitled to? The smallness of the amount adds to the enormity of the crime, and, therefore, I say, I was fully justified in making the statement. But, they say, I was opposed to Dr. Vinson. I was. I said then, and I say now, that I do not think he is a proper man for the place. Now, let us see what the record is on that, the uncontradicted record; you are bound to admit with me, that if he was guilty of the things, and the statements that I made about him were true, then the people of the State were entitled to a better President than I said he was. Now, listen, here is what I said about him (reading):

"In my opinion, the University has not a proper President. He has neither that experience as a teacher nor sufficient educational attainments that would qualify him to fill this important place."

He admitted that he took a summer school course in the University of Chicago, that he graduated in Austin College up at Sherman, and that he had graduated in a preacher's school up here somewhere. Now, ask yourselves the question, with forty other professors out there having degrees far above and beyond him, whether that statement was warranted by his own admissions, that he had only attended a summer school in Chicago, that he had graduated at a preacher's school, and in Austin College at Sherman. Is it possible that with all the money we have given them to support that great institution that we cannot get a man who has more educational attainments than that? Now, listen: "His management of an institution"—here is what I said about him, and put it in the veto message,—“his management of an institution previous to his promotion to the presidency of the State University was a failure.” That fact stands uncontradicted in this record. Mr. Fiset testified that Wilbur Allen said that he had wrecked that Presbyterian school. That fact stands uncontradicted in this record. “And

his record there,”—listen,—“his record there by no means recommends him to be employed at \$6,000 a year by the people of Texas.” Anything wrong about that criticism? Has the Governor of the State got no right to make a criticism like that? Has the Governor of the State got no right to suggest that we ought to have a man of some educational attainments at the University of Texas? Has the Governor of the State got no right to call attention to the fact that he had made a failure of the institution where he was? And don't you know that if that statement had been untrue, and if his record at the theological seminary, just across the street from the University, if that statement had been untrue, they would have had witnesses here, they would have had every Presbyterian from the confines of Texas to come here and tell you how well they were satisfied with his management of that school. But the echo says, “Where are they?” Wilbur Allen stands uncontradicted—whatever you may think about him. I stand uncontradicted that he was a failure, that he had wrecked that school; and yet, when they had never paid anybody else but \$5,000 a year, they took a man from across the street who had made a failure of a school and gave him \$6,000 a year! Are you going to go home and tell your people that you impeached the Governor of this State because he called attention to the uncontradicted fact that they had a President of the University of Texas who was getting \$6,000 a year and who had made an utter failure of his educational career? You have got to get on one side or the other, there is no escape from the proposition, and as a matter of fact, it is known in Austin that I am correct, that that school is closed, and as a result of this man's management; the papers were full of it at the time; that the man, Dr. Anderson, succeeded him, said that because its financial condition had been misrepresented to him, he asked to be relieved from his contract with the Presbyterian synod; it stands out in bold relief that you have gone and given \$6,000 a year to a man to be President of the State University who had made only a failure, in that way.

Oh, my friends, the Constitution

says—they say I am striking down the Constitution, they say that I ought to be impeached because the Constitution provides that we shall have a University of the first class. Yes, that is true, it provides that. But that same Constitution provides how you shall expend that money. I didn't raise this question, I didn't start this fight on the University; they started it themselves, and I told them over in the House that I was sorry that they had raised that question; but as they had charged me with striking down the Constitution, I had a right to quote the Constitution. So, the Constitution says that all appropriations made by the State of Texas shall be done—what with? Not given all in one year to them, to spend \$300 per student, but it shall be invested in bonds, after it is put into the Treasury, and the Legislature can only appropriate the interest on the money. And yet, they say that I struck down the Constitution! My friends, let me tell you about it. I realize what some people are expecting to be done here, and I want to tell you I have never faltered, and I am not going to falter, because I know what the Constitution is, because it is so plain that he who runs may read. That appropriation is illegal out there—it is illegal from two grounds, and you have got to go home and defend it. The first ground is that, as shown by the tax board records down here, that last year's appropriations—I mean the appropriations made by this year's Legislature for the next two years, exceeds by seven cents the constitutional limit of thirty-five cents. It would take forty-two cents before the University was made, to take care of the appropriations made by the last Legislature at its call session. Now, then, after you have exceeded the constitutional limit by seven cents, you come along again and put about four cents more for the University, when you said in your resolution that was is upon the people, that famine is in the western part of our State, that poverty is abroad in the land, and the cry of humanity beckons you to save us from the trouble and from misfortune and starvation—when all that is over the country, when the tax limit is seven cents above the constitutional limit, you then put upon the backs of the peo-

ple four cents more by appropriating \$1,640,000 for the fortunate boys and girls out at the University, who have already had a common school education at the expense of the State and you think that you are going to make me, under the passions of the hour, stop me from raising that question? I will tell you, I am not going to stop it, we are going to see, since you have raised this question and have pursued me here with it, we are going to see whether somebody will take care of the Constitution or not. Ah! they talk about a little \$2400 that the Legislature gave to the Governor of Texas to buy supplies at the Mansion with. And yet you yell, and you rant about the Constitution, about that little item, and you don't say a word about the \$1,640,000 that has been given after the constitutional limit has been exceeded, and for a purpose which the Constitution itself says you can not give it! You talk about the Constitution. Be frank, and go before the people of this State and say whether you want the Constitution enforced in one respect, and that you haven't got nerve enough to enforce it when it is already given to the favored few. Oh, that is the issue. You may put upon me impeachment, I will never falter from my duty. You talk about the Constitution! They talk about \$2400 that the Constitution said I should not have at the Mansion, and yet the record shows that the University of Texas has used \$7,000,000 in its history in defiance of the Constitution, and you haven't got nerve enough, because there is a student mob out there, and there is an Ex-Students Association in Texas who might have some political influence. Some people haven't got the nerve to stand up and say that, because of your University you have got no more right to take money beyond the limits of the Constitution than anybody else. And that is the question you have got to meet before the people. I am going to raise it on you. Just as well understand it. You have held it constitutional, and I am going to put it on until it burns like a mustard plaster, and we might just as well understand it. If this thing is persisted in, this right of coming down to Austin with a mob and telling the Governor of the State what he must do, and telling

the Board of Regents what they must do, you persist in that proposition, and if I read the signs of the times right, the people of Texas are ready to vote upon a question to remove this University from Austin to some place where they can't send the people down to pack the galleries, where they can't send the mob down to intimidate the Governor, where the representatives of the people in the full majesty of their independence will be left free to do that which their consciences tells them they ought to do, where they shall be left free to obey the mandate of the Constitution, plainly and explicitly written. Oh, my friends, these are the great issues involved. All these other charges that they have made can be met with the fact that Mr. Harris said that none of them were sufficient to justify impeachment; he said he did not believe that I wanted to make the interest on the money, but that I wanted to borrow some money from the bank. My friends, the other proposition is, I didn't tell you here where I got the \$156,000. Some Senators have thought that I have been guilty of impropriety in not divulging that information. You are sworn to try me according to the law and the evidence, and, therefore, you have got no right, if you want to do honestly, if you want to be fair about it, you have got no right to deprive me of any legal rights; and if you do that in order to gratify some personal spleen or some personal animosity, then you become a greater offender than I could ever possibly be, if I had been guilty of all the charges which they charge me with here. I said on the stand that I believed under my oath that I had the right to decline to tell where I got the money. Now, then, I was either right about that, or I was wrong about it, there is no middle ground about it, I had a right to withhold the information or I didn't have the right. If I didn't have the right, then if you have got a mode of trial prescribed in the Constitution, you had the right to punish me for contempt. If you have not got a mode of trial provided in the Constitution, then your whole proceeding is a nullity. It shows you that you did not believe you had that right, neither the House nor the Senate would move to fine me for contempt. Oh,

you are talking about the law of the country, and the courts of the country. If you honestly believed that that was the right position, then the courts were open to you to put me in jail for failure to answer the question. Go home and explain to your people why, when you condemn me for that, why you did not exhaust the remedy given you by law? The reason is, I fancy, that some astute members of the Senate had read the Constitution and they had discovered that there were no means or manner, or mode provided for the impeachment of the Governor, and that if they went into the courts the whole thing would be held a nullity; and that was the reason the question was not raised here. Ah! but you say, "You ought to tell anyhow." Under ordinary circumstances I believe that is true, and I think that the record will disclose that there never was a man in Texas that had told more details of his private business than I had told up to the time I declined to answer that question.

Two investigations had been held in Austin and my business and my wife's business, and my bank's business and my cattle company's business and my coal business and everything that I had had any business connection with for the past twenty years were gone into and laid bare, and as the result of it, continued persecution and continued criticism and investigation of my private business. I have suffered a great loss in my little fortune and it looked as though I was going to lose it all and would become as a poor boy washing dishes at twenty dollars a month, and step by step, and by economy, tending to my business, I, like every honest man and every ambitious man, desired to accumulate something for old age, as the result of it I had worked all these years I had lived; that there ought to be a time at some place and somewhere this continued digging and probing and nagging into a man's private business should stop. It had come to a place where I could not get accommodation; nobody wanted to do business with me, not because, as the record shows, I had ever beat anybody out of a dollar, not that I had ever failed to pay my honest debts, but because the politicians were after me, seeking by any means, fair or foul, to accomplish my de-

struction. It was impossible for me to get financial aid. Thus being tossed upon the waves of financial distress, being thrown upon the rocks of failure, I appealed to my friends to help me, and I had to tell them if they would help me they would not be subjected to the same criticism and the same scrutiny and the same persecution that other creditors of mine had been. Under those conditions they loaned me the money. Now then I am being asked to be impeached because I won't tell who I got that money from under those circumstances. Is it possible that fair-minded men have become devoid of every obligation which common honesty of one man demands must exist for the perpetuation of civilization? Is it possible to satisfy somebody's political animosity that I must be brushed aside and a word given in confidence upon which a consideration was received must be broken and bring persecution to the men who loaned the money and financial ruin to the man who borrowed the money? Well may you understand why Mr. Harris had to admit that "We are not asking you to impeach the Governor solely upon the \$156,000 item," because he knows and must know that no man ought to be impeached except for a crime defined by law, much less some suspicion. Now, listen. They have scraped the earth with a fine tooth comb; they even thought they had the money traced and they brought people here to testify to the wrappers on the money, that it was in the Alamo National Bank; that was their theory. You will remember in the papers where they said they had found it over in the Alamo National Bank. And yet the men here, the record showed, were subpoenaed—officials of that bank—and they went there and did not find where any loan in such an amount had ever passed through their books and the record is as silent as the grave where that money came from, the record is as silent as the grave where it came from or who it came from. And yet you are asked to impeach me because I won't tell. Now, listen. Don't you know that the true test of a public servant is that of public service?—the matter of his record by which he should be tried as a public official? and if there is nothing in his public record that brings either an evidence of some

guilt or some crime or moral turpitude you've got no right to go into his private business. They say that it was official misconduct. In what respect? Was it because of the prohibition question. If there had been a scintilla of evidence of some action of mine in reference to the prohibition question, wouldn't they have proven it? Was it the oil interests that somebody squints at? Had my record on the oil legislation been such as to arouse suspicion you would have found it alleged in these charges here. What have I done in my official record? What promise to the people have I made that I have not fulfilled? What obligation resting upon me officially have I failed to perform? And yet because in my financial dilemma I had to give my word to the people who helped me in my time of financial distress, they admitting at the same time it is not sufficient ground for impeachment, they say it ought to be joined with twenty other charges fully as faulty and I ought to be put out of office on that ground. My friends, to serve the people of Texas is a great distinction. To have the office of Governor is a great distinction. But for a man to be conscious that he had betrayed his trust, that he had misled his friends, that he had broken his word, would take away from him every personal satisfaction that he had ever received any honor or been entitled to any honor, and so upon this ground I refused to testify, as I had a legal right to do, and which the courts, if you would put it in the courts, would demonstrate that I had a legal right to do, and you as fairminded men ought to be liberal enough in the absence of any proof to say that you are not justified in convicting me and finding me guilty upon a mere matter of suspicion. Suspicion about what? Is it any crime for a man to borrow \$156,000? Is there a man in this Senate, if he needed the money for a purpose and a man would tell him he would loan him the money if he would not tell about it, that would not borrow the money under the same conditions? Not a one of you. Let's be honest with each other. Remember the obligations of man to man. You would have borrowed the money. As Senator McNealus told

me the other day, "I know the reason you would not tell where you got the \$156,000." I said, "Why?" He said, "Because you know it would break up this Senate and they would all be running down to the same place to see if they could get some of the same money."

Senator McNealus: Mr. President will the Governor please state whether that was said in a jocular manner?

Governor Ferguson: Yes, sir, but many a truth is uttered in a joke, but at the same time the Senator has not denied the fact and I think his failure to deny would be no exemplification or disrespect to say under the same condition if he needed money he would borrow it from anybody that wanted to loan it to him.

Now, my friends, I have spoken at length. They say I borrowed money up at the Temple State Bank. Yes, I did. The directors were satisfied with it. No man has been brought here to say—representatives of the Temple State Bank—that they were dissatisfied with it. I said upon oath that they were satisfied with it. Don't you know if there had been anything wrong about it they would have had all the people here in Bell County to testify to that fact? The former investigating committee in the spring of this year, in passing upon the very question of the over-line that they talk about, said that "based upon the good faith of the Governor and his solvent condition to pay or repay it, we do not think it is any ground for impeachment." Any difference in the facts now than they were then? If it was a crime then it is a crime now; if it was not a crime then, it is not a crime now. That is the answer to that charge. If the directors were satisfied with it and the money was repaid, so far as the crime of impeachment is concerned, whether it was thirty per cent more than the law allowed or fifty per cent more. It might have involved a matter of impropriety, but as long as it was paid and everybody was satisfied and nobody has lost a dollar, then you as fairminded men called to pass upon the question of whether I have done wrong—of course, I have done wrong in many instances; you have done wrong and I have done wrong; it is impossible to stay in the Governor's office three weeks and not do wrong in some way—

your fool friends will help you make a mistake; your enemies will involve you and make you make mistakes; the ordinary fallacies of human judgment will make you make mistakes; but that is not the issue, Senators. The issue is whether each and every one of the charges here are of sufficient gravity and coupled to that degree that would justify the great and enormous crime of impeachment? I say they are not. It is not a question of whether I did wrong or not, but whether I have been guilty of an impeachable wrong is the question which you are called upon to decide. If your conscience does not tell you that I have been guilty of a wrong to that degree, and you vote against me, then you have not shown proper respect for the oath which you took to try me impartially.

Now, my friends, I must close. I realize that I am going to be followed by the Official Spanker of the House of Representatives and the Board of Managers. Somehow or other I have never envied the private prosecutor. I could always harmonize in my mind why it was that a man could accept money to support his family and while he was trying to help some man out of trouble, to help some man on his way, to extend some act of kindness; but I never, whilst I do not condemn it exactly, I just want to say that I never could understand and get the viewpoint of the man who wanted to be always employed to hurt somebody, to make trouble for somebody, to criticize somebody, to prosecute somebody, because it always leads to a man's becoming a persecutor. Prosecution is a twin brother to persecution, and posterity never approved either one of them. And so I realize now that the General is going to bitterly arraign me; he is going to tell you what a bad man I am, and every time he tells you something I want you not to lose sight of the fact that Mr. Harris, his co-counsel, said that neither one of these was sufficient ground for impeachment, but they had to take them all together, and when he begins to tell you how bad a man I am, and how I betrayed my trust, I want you to remember that I have done a few things for the people of Texas and I want you to remember that I am not as bad a man as they say I am. If I had been a man that

was avaricious, if I had wanted to make two hundred and fifty or five hundred dollars interest on some money for forty-five or fifty days, how do you harmonize it with a man who has worked hard all his life, and who in his middle age desired to do something for his country, desired to do something for the masses of the country, desired to do something for the boys and girls who went to school in the country, desired to do something for the tenant farmers who had been heretofore unnoticed by the people of the country, to do something for the upbuilding of the country, who took from his private estate thirty-one thousand dollars, not from any brewery, not from any oil interests, if you please, but, as the record shows, from my own bank I took \$31,000 from my own funds and spent it legitimately in the campaign, making my own platform and policies. Does it seem reasonable, if I had been that bad a man, that I would have made that sacrifice? The last campaign I spent thirty-four hundred dollars. Then they say I only done it for the purpose of making four or five hundred dollars interest on a deposit for a few months. Does it look reasonable that a man would do that? I have been in office a little over two years. I have got about \$8000 salary out of the office. When I get through paying my lawyers in this case the salary will have been wiped out. I have paid off the chicken salad item and I have paid for the labor at the Mansion; this Legislature has not seen fit to allow me for the labor at the Mansion—a rule not enforced against any other Governor of the State. Why, they talk about my using the credit of the State, with the State's money to borrow money, and you lose sight of the fact that Mr. Dunn of the Union National Bank told you that when I came into office the credit of the penitentiary had gotten to where nobody wanted to do business with it. Because of my financial standing the State used my credit to get a hundred and twenty thousand dollars to make a success of the penitentiary, to put it on a cash basis, and if you are going to measure it by the question of cold blooded dollars and cents the record is undisputed that I have done as much for the credit of the State as the State has done for my

credit. The result of it is, you write this verdict of impeachment like the passions of the hour demand that you do, remember that a million dollars is going to be turned over to the profit of the penitentiary system that has been made under my management. Don't forget that in the purchase of a farm I made \$250,000 for the State of Texas. You say that is my idea about it. On the floor of the Senate that purchase was questioned. I made the statement that they might get twelve prohibition bankers that live in the Panhandle of Texas and let them go over to see that farm and if it wasn't worth a hundred thousand dollars more than the State paid for it I would resign from the office; on the other hand, if it was proved that it was worth that much money a statement would be made, an admission would be made, that a misrepresentation had been made against the Governor of this State. I bought a farm up in North Texas; the State had previously paid \$40 an acre for land adjoining it; I bought land adjoining that for \$15 an acre, better land. I am not reflecting on anybody, but I am showing you the facts, and you must admit that if I had been a bad man, seeking to prostitute the privileges of my office for private gain I have had every opportunity to make not only three or four or five hundred dollars interest on a little deposit, but I could have made a hundred thousand dollars if I had been the bad man they want to make me. Is it possible, because I have done something for the country schools of this State, are you going to lose sight of it all, are you going to lose sight of everything that has been done for the upbuilding of this State, for the educational interests of this State, a man who spent thirty thousand dollars to get the privilege to do something for the country schools of this State, where the system of education has received an impetus like it has not had in thirty years, when throughout the broad land of Texas the facilities for education to every boy and girl had been extended, where they can go without price and get an education? Is it possible, where I took a stand for the laboring classes of the country, and I have been able to declare my position about the labor-

ing classes of this State, is it possible you are going to forget, all that and impeach me on the same little ground of whether I wanted to steal \$5600 or whether I wanted to make the interest on a \$250,000 deposit for forty-five days? Gentlemen, you ought to take a broad view of this matter. General Crane, the Official Spanker, as the saying is, is going to romp all over me. I understand what is coming. It seems in the broad, unequal strife of life, down the stream which I am now sailing, there is a boat named "The M. M. Crane," upon that boat nine or ten managers demanding that he earn his money. When he begins to spank me and tell you what a bad man I am, remember it is nothing personal to him, but it is because the managers tell him; "Now, Crane, you must earn your money," and when he lets up for a little bit and breaks out again, don't think there is anything personal about it, but because the managers are demanding of him that he maintain his record of Official Spanker, and when he has done that to his heart's content, when he has said all the bitter things against me which he is going to say, ask yourselves the question whether after it is all said and done, before High Heaven, conscious of your duty to yourselves, has the Governor been guilty of any wrong that would justify impeachment? Lay aside the passions of the hour, try me like you would try anybody else, not any bias for me or any prejudice against me, but extending to me like has been extended to all men in all ages the eternal laws of justice. I thank you.

Senator Page. Mr President, it is now about 11:25 and I don't think Mr. Crane would like to begin his argument before lunch.

Senator Bee: Mr. President?

The Chair: The Senator from Bexar.

Senator Bee: I wish the Chair would admonish the galleries then, if we adjourn as a Court, we will continue as a Senate, and they must permit us to continue our deliberations quietly.

The Chair: The Chair will do that as soon as this matter is disposed of.

Senator Page: Mr. President.

The Chair: The Senator from Bastrop.

Senator Page: If I might be permitted to ask General Crane if he prefers not to have his argument broken into.

General Crane: I would prefer to adjourn.

Senator Page: I make the suggestion in the light of General Crane's statement, that we rise until 2 o'clock.

Senator Strickland: Mr. President.

The Chair: The Senator from Anderson.

Senator Strickland: I would like to amend that and make it 1:30.

The Chair: The Chair desires to state this to those in the gallery, the Senate will be in session as soon as the Court rises, and if any of you remain where you are we want you to keep order. Those in favor of the motion that the Court rise until 1:30 this afternoon signify by saying "Aye," those opposed "No." The ayes have it. We will rise to meet at 1:30 this afternoon.

Thereupon, at 11:24 a. m., the Court recessed until 1:30 p. m.

In the Senate.

President Pro Tem. Dean in the Chair at 11:25 o'clock a. m.

Recess.

At 11:30 o'clock a. m. Senator Clark moved that the Senate recess until 1:30 o'clock today.

The motion prevailed.

After Recess.

(Afternoon Session.)

The Senate was called to order by President Pro Tem. Dean at 1:30 o'clock.

In the Court.

Saturday, September 22, 1917.

Afternoon Session.

(Pursuant to the recess adjournment, the Senate, sitting as a Court of Impeachment, reconvened at 1:30 o'clock p. m.)

The Chair: The time having arrived for the convening of the Court, the Court will come to order. Everybody be seated. The Chair will say for the benefit of those who may not have been here this morning and who are now in the Chamber and in the galleries as our guests, that we do not want any kind of demonstration at any time during the progress of the proceedings this afternoon, we can not tolerate any demonstration. I believe that all you need to know now is to be reminded that that will be so much out of order that the assistants of the Sergeant-at-Arms are instructed to put out of the gallery or out of the Chamber any one offending in that way. Let us have order, now.

General Crane: May it please the Court, my voice being a little out of order. I take this elevation so as to make myself heard more easily (referring to the platform of the witness stand.)

I congratulate the Court upon the fact that this case is nearing the end, and that soon the result will be known and announced. It is an important proceeding, important in many ways; important because it is the first of its kind that we have had in this State, and because it is necessary for the State to announce in this authoritative way by the highest Court of Impeachment that could be convened in this State, and the only one, what the policy of this State will be in the future towards its officers; that is to say, whether or not its officials, from the highest to the lowest, shall be governed by the law, or whether or not they shall have a discretion commensurate with their imaginations. I am going to waste but little time in discussing the kind of a case, as to whether it is a civil or criminal, further than to say that this Court settled that, as I understood, by ruling on the admission of the evidence early in the proceedings. No appeal having been taken from that, I take it for granted that the Court has determined that so far as this case is concerned, that it is not a criminal case, but that it is one of its own kind—*sui generis*, so to speak, neither civil nor criminal. It certainly has none of the essentials of a criminal case, in that former jeopardy cannot be pleaded; and besides that, all of the crimes in

Texas are divided into two classes, felonies and misdemeanors; of the felonies the district court is given exclusive jurisdiction, and of the misdemeanors, the jurisdiction as to them is divided between the district court, the county court, and the justice's court. Our Supreme Court, speaking through Chief Justice Gaines, in a very able opinion, pointed out those facts, and as a necessary conclusion, that all criminal cases must be tried in a different way, and in the courts in which the Constitution has placed that responsibility.

It ought not to be necessary for me to suggest to you that there is no personal feeling involved in this case. The Board of Managers, for whom I speak, and the House of Representatives that meet at the other end of the Capitol, have not been moved by any personal feeling toward Governor Ferguson, but they have moved solely by a sense of duty to their constituents at home, because, after all, in every government, State, municipal, or national, its ultimate purpose is to protect the weak against the strong, and to compel obedience to the law by everyone, whether he be a private citizen or an official. I need not call your attention either to the fact that it is not necessary for anyone who is sought to be impeached to be guilty of a statutory crime. I do not go to the extent, nor do I believe all of the authorities bear it out, but yet they do nearly so, of some of the distinguished New York lawyers in the Sulzer trial, who said that an impeachable offense was whatever the Senate of the State thought it to be, that they could make a trivial matter an impeachable offense if they saw fit. I concur in that opinion this far, that the Senate can make any offense or any misconduct upon the part of an official an impeachable offense if they believe that it disqualifies him or that it impairs his usefulness as an officer, they can remove him; in other words, it is an exercise of the same power that in later days has been sought to be exercised by the recall, it is simply an official recall of an officer, an executive, who ceases to obey the law and who does business in an entirely different way. But in this case we are not left to that sort of conjecture, we are not left to that

sort of suggestion as a ground for impeachment in this case, because I will show you before I have gone very far that Governor Ferguson has not only disobeyed the law, but that if his conduct is to be construed or governed by the laws that govern the conduct of the average citizen, he can not avoid the consequences—or he can not avoid the conclusion that he has violated the criminal statutes of this State.

Now, before I go further, too, allow me to correct a statement made by his counsel and himself as to admissions of Mr. Harris in his opening argument, Mr. Harris did not admit, as I understood him—and I have the language here before me (referring to Senate Journal)—that he ought not to be impeached for any one of these charges made against him, but because of all of them. He made that admission only in reference to one, and that was the Woodman charge; he said that if that was the only one that he would admit that probably he ought not to be impeached, but he asked his impeachment because we had proven all of the twenty-one charges, and he said, "I think either one of twenty certainly would justify his impeachment, even if there was nothing else proven against him." Now, for example, we find that when he came into office he had scarcely warmed his official seat before there was turned over to him \$101,607.18 of the people's money—not his money, but belonging to the entire people, for the purpose of rebuilding the Canyon City Normal School. That money should have been deposited in the State Treasury, but it was not. His predecessor, however, I can say in his justification—or, rather, his mitigation, if not in justification, he deposited that money in banks in which the then Governor was not interested and on which he received interest, and took security for every dollar, so as to insure the State against any loss and make the money earn interest in the meantime. Governor Ferguson took that money when it was put into his hands and put at least half of it, \$50,000 of it in his bank, at Temple—not all, at any rate, but that much ultimately found its way there as the money was collected. That bank, remember, had not made one penny of dividends, hasn't made any in the past two years, as he has testified. He says that that money

was not intended to be loaned out, to profit him, and he exhibits a letter accompanying his remittance, that no loan was to be based upon that deposit. But, I take it, that he cannot be and could not be, and was not ignorant of the fact that that money was loaned out, because the statements of the bank, and his bank examiners, appointed by his appointee, showed that while that money was in the bank the reserve was always less than the fund that Governor Ferguson had placed there. Now, think of it! He took \$50,000 of the State's money and put it into the bank, and the reserve or cash surplus of that bank during the time that that money was in it, was less than the amount of the State's money which Governor Ferguson had deposited there. Now, if that money had not been there, that reserve would have had to have been taken out of some other funds; he cannot escape the conclusion, and he ought in all frankness to admit it, that the deposit of that \$50,000. in the Temple Bank was advantageous to him, was advantageous to the other stockholders, and he ought not to escape the conclusion, either, that it was deposited there for the purpose of being profitable to that bank. But then comes another question; after that money had been there for some time, on the 23d day of August, 1915, \$5600 of that money was appropriated to pay his private, personal debt of \$5600 due to the First National Bank of Temple. That was on the 23d day of August, 1915. On the first or second, or third of September of the same year, a statement was sent to him, containing the three other items of money that had been remitted to the American National Bank, and also containing this item of \$5600, with a voucher, plainly written, stating \$5,000 on the note to the First National Bank of Temple, \$600 in the next line, interest, making a total of \$5600, and with a further notation in ink, "Note sent to Austin." Now, his Private Secretary sitting here on this witness stand stated that he never read that report. We are obliged, Senators, to examine this testimony in the light of the ordinary understanding of men, and the ordinary habits of men. A man sends and gets a bank statement with only four items in it, it is a statement affecting a trust fund for the use of which he, at least, has assumed, or is

clothed with the power of disbursing: he gets that statement, and to say that he never looks into it, challenges the credulity of any man—never examines the four items to see whether or not they are proper charges against that trust fund, never looks to see whether the money has been properly applied, or whether it has been applied to the wrong account. If that be true, then, Governor Ferguson ought to be removed from office, because he is unfit to act as trustee in such large matters, if he can let \$5600 of trust funds slip into his other trousers' pocket without ever ascertaining the fact until the grand jury points it out. Now, that is not all. In the following April—the following April, Governor Ferguson wrote a letter to the same bank to send him a statement of his gubernatorial account. That statement came, and yet it was not discovered that \$5600 of the people's money had been applied to the payment of the Governor's debt. And yet, now, Senators, there is another suggestion; in that same April, that same month of April, the 27th day, he had to pay for the Canyon City Normal, the last payments on it. He knew the amount of money he had on hand to make that payment was \$101,607.18. He had all of that at Temple transferred to the American National Bank, he knew it was brought down here. In the meantime, he had deposited money of the Adjutant General's office, something over \$3,000.00, he had deposited some of the King's Highway funds, or other trust funds committed to his care in the same account, and when he made his last payment on the Canyon City Normal, it ought to have been the last of \$101,000.00, he overdrew that account of about \$108,000.00, he overdrew it \$1847.50. Now, Senators, let me ask of you, is it possible for a Senator here, charged with the administration of a trust fund, to have in his hands \$101,607.18, and when he goes to pay out that trust fund he knows that he has not only paid out what there is left of that, but he has paid out nearly \$4,000.00 of additional funds, and he has made an overdraft of \$1800.00, or, rather—yes, an overdraft of \$1847.50, and, yet, never discover any of that trust fund had been misapplied. I would

like to believe, Senators, that he did not know. But he was called upon then to make a deposit to cover that amount. He deposited \$1850.00 out of his personal funds to cover the deficiency. Why should he have been depositing his personal funds to cover a deficiency in the trust funds, if he did not know that some of those trust funds had been improperly used? Then, you will recall that while the witness was on the stand, I asked him to take the amount of the overdraft, \$1847.50, the amount of the Adjutant General's fund, the amount of the King's Highway fund, and add them together, and see what they made. He added them and they made the fateful sum of \$5600.00, the precise amount that had been abstracted by the Temple State Bank and applied to the payment of the Governor's debt. And, yet, Senators, he never discovered that loss, he tells you, never discovered it until on the 20th day of July, 1917, more than a year—nearly two years, after the loss had occurred, and then it was pointed to him—the Governor of this great imperial State—it was pointed to him by the Grand Jury of Travis County! My God! When has it become necessary, since when, for the Governor of the State to have a grand jury of a county point out to him a breach of trust of which he has been guilty? It is humiliating to every man of us here that any man clothed with the power of executing a trust, entrusted with cash that does not belong to him, but to others, to let that cash escape from his fingers and never discover it until a grand jury calls on him to account! Now, I appeal to you lawyers here—and I see you sitting around me, many of you who handle all kinds of cases and all kinds of trust funds—there is not one of you here this afternoon who would be entrusted with \$100,000.00 to thus distribute, that it would be possible to get \$5600.00 out of your hands without your discovering that fact? I think you ought to give to the Governor what he claims—that he is a man at least of ordinary intelligence and ordinary capacity, and I take it you will reach the conclusion that it could not have escaped him either, without his knowledge, even his consent.

I am not going to discuss all of these charges, the time is too short and I do not intend to consume all that is allotted to me; but there are some of them to which I do wish to call your attention.

When he came down here to Austin, he tells you, and all of the officers who have testified, it had grown up to be a habit here to do—what? To make their collections of checks that were sent them paying the official fees or charges, the government collections, take those checks, deposit them in a bank for collection, and make settlement with the Treasury every thirty days; that had grown to be a custom. But when he came here, what happened? A conference of some kind was immediately held between the Banking Commissioner and himself—or, at least, that was the result of it—and then between himself and the Secretary of State, in which it was understood that the public funds of all kinds and characters that were collected by those officers, settlements for that should not be made except at the end of a ninety-day period. And then, for the first time in the history of this State, the money of the people of Texas, your money and my money, the money that the taxpayers had paid in, or, at least, it belonged to the taxpayers,—that was deposited under the direction and with the consent of the Governor of this great State where it would bring a revenue to the bank in which he was a stockholder! As I look at this magnificent audience before me now, as I look at this tribunal, the Senate of Texas, representing the best thought and feeling and traditions of this great people, I cannot but reflect back and wonder what would have been thought of old Richard Coke, or old Governor Roberts—the “Old Alcalde”—and John Ireland, the chivalrous Sul Ross, if it had been found or believed that they were acting, or either of them, as a collecting agent for a bank in which they happened to own stock, or of using the public funds by depositing them where they would bring a revenue to them. No, no. If that had been true and it had been discovered, the names of those gentlemen whom I have mentioned would not be honored now throughout the confines of

this great State as unselfish public servants. But they say, was that prohibited by law? I answer, “Yes.”

Listen, Senators—but let us look at the extent of it before we read the law. It was not an occasional deposit, it was a deposit running all the years, and, mark you, the subterfuge, the little excuses made for it—why, they had a witness on the stand here from the Secretary of State's office who had sent \$5,000.00 to the Temple State Bank, and it stayed there eleven months, and it is there yet, re-enforced by \$10,000.00 more. “Why,” they said, that \$5,000.00 were overcharges where somebody in paying franchise taxes paid fifty cents too much, and we are unable to refund it to him, and it is that \$5,000.00 that was sent up to Temple.” Well, now, that is not true, and they afterwards admitted it. What they did have in the vaults of the Treasury, or in the bank, was \$250,000.00, some of which, of course, were those little items, and they took the \$5,000.00 and sent it to Temple. It is \$5,000.00 of the people's money. A little bit later they put \$60,000.00—the Governor took it in his pocket up there and deposited it in that bank,—not for collection, but it was cash. A little bit later they took \$250,000.00, took that to Temple and deposited it in that bank; and at one time they had in that bank \$354,000.00 of money belonging to the Secretary of State—that is, in his hands, that he ought to have turned in to the State Treasury, but instead of that he turned it into the Governor's bank. How is that money secured? You gentlemen know the law. A Secretary of State gives a bond for \$25,000.00, and for that bond of \$25,000.00 he takes \$354,000.00 away from the Capital into a distant county and deposits it in a bank which has been unable to earn a dividend for two years—no security, no nothing.

Now, then, let's see what the law was, and the Governor said he knew what it was. It says (reading from statute):

“That if any officer of the government who is by law a receiver or depositary of public money, or any clerk or other person employed about the office of such officer, shall fraudulently take or misapply or convert

it to his own use, any part of such public money, or secrete the same with intent to take, misapply, or convert it to his own use, or shall take or deliver the same to any person, knowing that he is not entitled to receive it, he shall be punished by confinement in the penitentiary for a term of not less than two nor more than ten years."

Now, that was the law of 1858. In 1879, twenty-one years later, they amended it as follows:

"Within the term 'misapplication of public money,' are included the following: The use of any public money in the hands of any officer of the government, for any purpose whatsoever, save that of transmitting or transporting the same to the seat of government, and its payment to the Treasurer."

Could any man misunderstand that language? There is not a layman here who does not know what it means. By misapplication of public funds it meant what? "Any use whatsoever of that money, save that of transmitting it into the State Treasury." But that is not all, here is another:

"The deposit by any officer of the government of public money in his hands, at any other place than the Treasury of the State, when the Treasury is accessible and open for business, or permitting the same to remain on deposit at such forbidden place after the Treasury is open."

Now, that is one of the things that the government sought to compel—to compel the officers who got possession of public money in the State to deposit it in the State Treasury, and I say now that it would be misapplication of that fund if he used it for any purpose, or if you deposited that money elsewhere, provided the State Treasury is open for the reception of that money and the transaction of business.

I dislike to say this, Senators, I would like to say it otherwise—but how Governor Ferguson and his Secretary of State can escape the proposition that they have violated this criminal statute, I cannot understand. Did they use, I ask you, did they use this public money in the hands of an officer of the government for any purpose whatsoever except of transmitting it or transporting it to the seat of government? I will ask you to answer, did they deposit this money

that was in their hands at any other place than the Treasury of the State, when the Treasury is accessible and open for business, or permit the same to remain on deposit at such forbidden place after the Treasury is open? I leave you to answer that, Senators, if you can say in the face of this record that that is true, that he never deposited the public funds except in the Treasury of the State when it was open. I know you can't say that, because the evidence is all the other way—the admissions of the Governor are all the other way. Now, how does he meet that situation? He says that it must be deposited with "a fraudulent intent." I say no. Senators, you lawyers, you must say no. That statute does not say that the deposit of money with "fraudulent intent." No. But the deposit of it anywhere except in the Treasury. Now, you will remember the banking statute—the Governor admits that part of it, that if the president of a bank, or an officer of a State bank, shall borrow money without the consent of his directors, that that is of itself a felony *per se*. No fraudulent intent there necessary, it is simply a statutory crime for the protection of the best interests of the State. And this is a statutory crime to prevent just such conditions as have grown up here within this State within the last two years.

Here is a pitiful circumstance connected with this matter—during the period that this money was being deposited at Temple and elsewhere, a deficiency arose in the Treasury, and the poor wretches to whom the State was indebted—some of them poor and some of them otherwise—were obliged to either discount their warrants or await calls made for them later. Why? Because the money was not in the Treasury to make these payments! The money was deposited in private banks here and there, and everywhere, to suit the convenience of the official family, instead of in obedience to the law, depositing it where it ought to be.

If there is any Senator here who is doubtful about an impeachment proceeding except for a statutory crime, he may remove his doubts. A statutory crime has been committed over and over again. The Governor himself carried a part of the money to Temple, he was present, and, as his testimony shows, and his declara-

tions show, introduced into this record, he encouraged the Secretary of State to do the same, telling him that the larger he made the deposit, the better it would please him. Now, that still is not all. The State of Texas passed a banking law establishing a comprehensive system of State banks. It was more liberal in some of its provisions, very much so, than the National Banking Act. The Federal government, in establishing its banking system, provides that no bank shall lend more than ten per cent of its capital to any one man—capital and surplus. This State law provided no bank should lend, under any circumstances, more than thirty per cent of its money to any one man—of its capital and surplus. The Governor owned a one-fourth interest, or a little more, in the Temple State Bank. When he left there and came down to Austin, he owed it about \$12,000. The deposits of the State's money began to increase in that direction—or, rather, began and were increased, and the Governor's credit line was immediately increased. It grew and grew, until his overdrafts at some periods amounted to \$44,000 or \$45,000 more than the statutory amount, and was finally increased with notes and all to practically \$170,000. Now, remember, that bank had \$125,000 capital, it had a colorable surplus of \$25,000 or \$30,000, but it was carrying dead notes that were said to be worthless, and that the bank examiners were insisting should be charged off, of about \$40,000. So, you see, the surplus was practically exhausted. It carried its bank building at \$25,000,—at \$100,000—so that the only capital stock available to that bank for business purposes was \$25,000 cash. The money upon which they must do business, then, must come from the deposits, and of these deposits, when they came in, the Governor procured to be loaned to him, \$170,000. Now, let me read you that law—there is another criminal statute (reading):

"Any officer, director, or employe of any State bank or trust company who knowingly or wilfully fails or refuses to perform any duties imposed on him by law, or who shall do, perform, or assist in doing or performing any act or transaction prohibited by the provisions of this law, for the punishment of which provision is not herein otherwise made, shall be deemed guilty of

a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$500 or more than \$1,000, or by imprisonment in the county jail for a term of not less than thirty days nor more than ninety days, or by both such fine and imprisonment."

Now, when the Governor procured—or the president or cashier of that bank lent him money in excess of thirty per cent of the capital stock, what was he doing? He was inducing them to commit a crime, for which each one of them could be fined \$500—not less than \$500, nor more than \$1000, or be committed to the county jail for thirty days, or ninety days, or by both such fine and imprisonment. You know now what that means. He who procures the commission of a crime for his own benefit is the criminal himself, and Governor Ferguson and the cashier and the president of that bank, if the law had been enforced in Bell County, would all have been indicted and convicted under the statute for violating the Texas law. Now, that sounds harsh, but I am only dealing in the plain words of the record. It is not any pleasure for me to contemplate a man filling the high office of Governor, who holds his hand up before High Heaven and in the presence of the assembled multitude swears that he will enforce all the laws of the State—it is no pleasure to me to call attention to the fact that he openly and notoriously violated them and that for his own profit. It is as much the duty of Governor Ferguson to enforce the banking laws of this State as it is to enforce the laws against murder; it is as much his duty to enforce the banking laws of the State as it is to enforce the laws against railroads or other corporations; it is as much his duty to enforce the laws against the borrower as it is the laws against the lender. But how does he evade that? He says that the law is directory and that when the law comes in conflict with business necessities the law must yield. That is about his idea—when the law comes in conflict with business necessities the law must give way. I leave this Senate to determine whether or not it will say—whether it will say that the Governor of this State, sworn to enforce the law, can shamelessly vio-

late it. Remember, we have no privileged classes in this country. The man who happens to be elected to a high office does not thereby become a chartered libertine. That man is as much amenable to the law as the humblest citizen in the land, and I thought at the time that Governor Ferguson in attempting to array the University and the common schools against each other and appealing to the man at the forks of the creek, the hard-handed laborer and the hard-working farmer—that if those people knew his attitude, that they must obey the law, but so far as the Governor is concerned he is King and the King can do no wrong. That is a nice theory to get up in Texas. Why, he said a rich man could borrow every dollar of the money in a bank, just so long as the loan is safe. Now, Senators, I need not remind you of the purpose of this law. The purpose of the banking laws of this State was to gather together the resources of each community in which the bank was established by having the money deposited therein. It was a fund available to every honest man who wanted to carry on a business and carry on the various enterprises necessary for the happiness and well-being of that community. It sought to prevent the very thing that Governor Ferguson has insisted upon—that is, borrowing all that money by one man. Why, if Governor Ferguson's theory could prevail, Major Littlefield in this city could borrow all the available funds of every State bank in Austin and in Travis County; he could borrow every dollar of them and make them secure. But what good would the banks be then? Major Littlefield could use those banks to corral the resources of the community and become the master thereof. In Dallas, the city where I live, I can get a dozen men there and name them who could borrow every dollar in every State and National bank in that city that is available for lending. But why—why can they not do it? The Federal Government, over which floats the stars and stripes, says no one man can do that; you can borrow only a small percentage of the capital stock and surplus of that bank; the rest of it must be left available for the other people in the community. The State, in the same way, but with more liberality,

announces you can only borrow thirty per cent. Governor Ferguson says the law must get out of the way, I need that money, I can make it secure and then that's all—and did he have it secure? Now, let's examine that for a moment. He said in his testimony a little later on that he was threatened with bankruptcy at a certain time. Do you recall? He said that it was after the investigation, but now he will have to modify that statement. Why? Because this threat of bankruptcy came to him when he was owing the Temple State Bank \$150,000. Certainly, there was \$150,000 that he owed that bank, four notes, all of which were guaranteed by him. Bankruptcy was threatening him then. Then it was that his friends came in and made him that loan of currency about which so much has been said. Suppose that bankruptcy had come on him; suppose that that unfortunate condition had materialized at that time. What would have become of the Temple bank, and what would have become of the honest depositors whose cash was therein placed? It would have been a wreck—it would have been a wreck—wrecked not by the rascality of the officers, but wrecked by the disregard of the Governor of the State for the laws under which that bank was organized. Why, the Governor's idea of enforcement of the law, I want to get it to his country friends—he says, for instance, that Major Littlefield could go in his bank, contrary to law, and take out a half million of money if necessary and go to Europe with it and come back and replace it; that the fact that the Major was able to replace it would make it not a crime; but if a poor stenographer or teller or clerk were to take out one thousand dollars, believing that he would be able to replace it, but if some misfortune befell him and he could not, he would be a criminal and a felon. The Governor has not learned the first principles of democracy or Americanism. He ought to know that the laws of this land operate on the rich and the poor alike. The law does not define a crime for a poor man and leave the rich man innocent for doing the same act. It is the act that constitutes the crime. There never has been a bank wrecked in all this country, there

never has been a misapplication of public funds in all, this country, that in its incipency the man beginning to take the money did not intend to replace it. Take the defaulting cashiers, the defaulting tellers, the defaulting presidents; that has always been true; they first take the money intending to replace it, but finally, finding they could not, they then went to pieces, hence the government has fixed this law so that it makes it a crime *per se* for a man to take the funds of a bank of which he is trustee or officer or use them contrary to the letter and spirit of the statute under which it is organized. The Governor is unhappy in his construction of law. He perverts the plainest principles. Now, let me read a section of the Constitution, and I believe that every lady and every man in this audience even would not misapprehend it; I know that no Senator would. It talks about the Governor's salary. "He shall at stated times receive as compensation for his services an annual salary of four thousand dollars and no more, and shall have the use and occupancy of the Governor's mansion, fixtures and furniture." Now, there is not a Senator within the sound of my voice who does not know that that provision of the Constitution meant that he should get a salary of four thousand dollars and should have the use of the furniture and fixtures in the Mansion and the Mansion itself—no more, not a penny more. And yet Governor Ferguson had appropriated money for fuel, ice, light, water and incidentals, and then proceeding to spend the entire appropriation for incidentals, and I could scarcely credit my senses when I found out that by "incidentals" he meant family groceries, chickens, butter, eggs, beef, lard, automobile supplies, horse feed, and all that—vegetables, in fact almost the entire living expenses except clothing. Those were classed as incidentals. In the face of that—now, it would not have looked so bad—in the face, however, of this fact, that during the previous administration an appropriation had been made for groceries, but his Legislature refused to put "groceries" in it and gave him "incidentals." Then, when the case of Middleton against Terrell was

begun the Attorney General was asked to take charge of the defense, maintaining the proposition that this appropriation for groceries was right and proper and constitutional. He declined to do so, advising Governor Ferguson that the Legislature had no right to make that appropriation. Well, he knew more law than the Attorney General. They got into the District Court. The District Judge advised him in the same way. He still would not take the District Judge's opinion. They then went to San Antonio, to the Court of Civil Appeals there, and there in an opinion which no man can answer it was pointed out that the framers of this Constitution intended no such absurdity, and that if they could know what was done in their name they would almost turn over in their graves. Yet Governor Ferguson proceeded to buy incidentals, interpreting those incidentals as groceries—all the eatables you can think of—charging them to the State and paying for them out of the State Treasury as long as the appropriation lasted and then issuing deficiency certificates thereafter. Later the case came up to the Supreme Court. The Supreme Court refused a writ of error, and still in a message to the Legislature he asks them to make an appropriation covering the deficiency warrants which he had created for his family expenses. Senators, the trouble with the Governor is that he has an utter disregard for the law. The fact that it is a constitutional provision, a decision of the Supreme Court, or a statute, makes no impression on him. He will not obey it whenever it goes contrary to what he thinks ought to be the law. That is the first thing that the lawyer learns. He learns that many times he is obliged to submit when he thinks that on principle the decision is wrong, and later on perhaps he reaches the conclusion that the decision itself was right. Now, there was an examination then, a committee met over here in March, and the Governor appeared before it. His attention was called to this particular provision that I am discussing, and he then and there promised under oath—I have got it here in the Journal—that if the Supreme Court overruled the motion for rehearing he would immediate-

ly pay back into the Treasury all the money that he had taken out for that purpose. There can't be any mistake about what he said. But the Supreme Court overruled the motion for rehearing. He did not pay the money back into the Treasury, and he came over into the House and solemnly stated in the presence of that House Committee of the Whole that he would not pay it back unless the Legislature requested it. I called his attention to the fact and asked him if he did not think that it was the proper thing for the Executive of the State to obey the law as interpreted by the Supreme Court and not ask to have a decision of the Supreme Court reinforced by a resolution of the Legislature. Until these articles of impeachment were preferred he did not pay it back. Since then he has.

Now, I come to another point, and I am hurrying. The Governor has made a violent attack upon the University of this State. Now, don't let any of you misapprehend our position in reference to that. Nobody denies the right of the Governor to veto an appropriation for any institution that he thinks is wrong. But now I want you all to remember another fact: That he can veto any part of an appropriation and leave the rest there. But he practically vetoed all the appropriation for the University, letting the Legislature adjourn—let it go. It would have been precisely like if he had vetoed all the appropriation for the judicial system of Texas without having in mind calling another session and leaving the machinery of the law entirely powerless to execute itself; it is the same thing in principle, though perhaps not quite so disastrous in result. The University is the creature of the Constitution. It was the dream of the fathers, it was the result of the prayers of the mothers, in order that their children in Texas might have an opportunity for higher education. It was established and it has been conducted now for more than thirty years and with signal success. It had two methods of support; one was a permanent fund which was sought to be created, and the other was taxation. It was hoped that the permanent fund would be sufficient, because the fathers made wise provision for its maintenance by a permanent fund,

but they didn't make quite enough. The Governor did not issue that veto message for the proper reasons, or based upon proper causes; he issued it because of his personal grievances against members of the faculty. Think of the Governor of a great State, think of him because he falls out with some members of the faculty of the University denying to the young men and women of Texas an opportunity for an education because he can't have his way about some trifling circumstance like that. He had a Board of Regents composed of most excellent men; he had Mr. Sanger of Dallas, Major Littlefield of this place, and many others of equal rank and station, all of whom were patriots serving at a loss to themselves and with no interest to subserve except that of the good of the people of Texas. Governor Ferguson made as a pretext, as I believe, his statement that they were using scrip out there for which they paid twenty-five dollars and cashing it for thirty—railroad traveling scrip. But, Governor Ferguson, did you make any objection to the heads of your departments doing the same thing? No. Didn't you and the Comptroller talk that matter over at the time and didn't you get a letter from him? I believe we did. Didn't Mr. Davis tell you a short time ago that the practice was in vogue in his department? Yes. Did you ever examine into those things at all with a view of correcting them? No. But he called it up in the University. Dr. Vinson immediately corrected it. Then there was some little expense account out there of one of the professors taking his wife to Fort Worth in order to save an expense of five times as much to bring a man from Pennsylvania. That was held up as an evidence of moral obliquity. Well, he said the trouble about that was that the entry was not as it should have been, that they undertook to substitute something. All right, Governor. Didn't you make some entries of somekind? In 1915 when this chicken salad case was pending at San Antonio, didn't you make a contract with Mr. Achilles, and didn't you procure a warrant to be issued by the Comptroller for \$1796 for incidentals, and were you not prevented from getting that money out of the Treasury for those incidentals by the obstinacy of the Treas-

urer of this State? Well, yes. Now, what was that? I know there is not a married man here who believes that grocery bills are incidentals. Yet the Governor was quite willing to take \$1796 out of the Treasury of the State as incidentals, and yet fall out with Professor James or Dr. Battle for paying twenty dollars expenses of a good woman to Fort Worth to save an expense account in the University. Well, finally, the thing that sounded ridiculous, it was given out in the papers that Governor Ferguson had called the Regents down to Austin for the purpose of discussing with them changes in the faculty of the University. What were the changes proposed? Dr. Vinson had to go. Dr. Vinson was very much beloved by the faculty and by the student body, and rightly so. Those professors had to go, too. Some of them have been there for twenty-five years or more. They were likewise beloved by the student body, the young men and women who had been under their tuition in the school. Why, when they heard that their beloved President and teachers were to be turned out ruthlessly and for no reason except that the Governor did not like them, they asked permission to hold a meeting and protest against this. That angered the Governor. Why, he thought they ought not to have that privilege. Senators, you know that when young men go to college they are no longer children; they claim the rights of free American citizens and they claim the right to meet and develop their manhood by developing their own lines of original thought and original action. They met. Finally they concluded they would march down to the Governor's office, or pass at least through the Capitol. They came singing a great old song that I wish to God the Governor had heeded and all this trouble would have been spared, and that is that "The Eyes of Texas Are Upon You." They interfered with nobody. They had a band of music, and if that Governor and that Board of Regents had sat down in their office and closed the windows and gone on with their business, instead of running to the windows like schoolboys watching a circus parade, there would have been no trouble about it at all. But the Governor had to go to the window.

He had to demand what was on the banners. And whenever you get to talking to a boy and put yourself on a level with a young fellow he is going to talk back to you. The sooner you learn that, the more trouble you will avoid. Of course, they talked back when he angrily denounced them or demanded of them what they were doing and why the banners were thus floating. As a matter of course young men are going to talk back, and thank God for the spirit that enables them to talk back, because that is the kind of material from which free men are ultimately constructed. I don't want a milk-sop boy around me; I don't want him in college and don't want him in my home. I want him to be a man who stands straight up and tells me what he thinks, if he thinks I am infringing on his privileges I want him to feel free to let me know it and get right with him if I am wrong. But it was regarded as a terrible, terrible crime for those students, young men and young women, too,—I have seen some of the young women since I have been in Austin, some of these young ladies that were so boisterous and that intimidated that old Board of Regents so much. They even intimidated "Babe" Allen. Yes, it was that crowd. Why, some of those young ladies don't look like there is a bit of harm in them. Yet that crowd of marching students is made a pretext for closing up that institution and denying to the thousands of other young men and women, who had nothing to do with that procession, an opportunity for higher education. Not only that, but the Medical School at Galveston is likewise cut out by the roots. Why? Why? Because Dr. Fly wanted it done. Dr. Fly had a feud with some other doctor down there, some of the members of the faculty. Did you know them, Governor Ferguson? No. No. But yet, in this time of stress and war, when our President is calling on us to keep our scientific institutions at high pressure, the Medical branch of this school, this University, must be stricken down in order to gratify a quarrel between some angry doctors. Now, I like the doctors. I had to have one last night for a little while. I have some excellent friends among them. But you can take a small town of four or five thousand people and

get two groups of doctors and two banks and you have got a perpetual warfare every day in and day out. And yet, oh, how ridiculous! It would be funny if it wasn't so sad. Here is a man, the Chief Executive of the State, proud, old imperial Texas, sacrifices the hopes and aspirations of the young men and young women of this State because of a quarrel of Dr. Fly with some other Doctor—and perhaps the other doctor was right in the controversy. A man who will do that ought not to be entrusted with the great power of a Governor. If Dr. Fly can induce him to destroy the Medical School, without his knowing one single, blessed thing about it, if he can induce him to do that, what some other friend of his may induce him to do that is equally as bad or worse should he remain in the Governor's office, God only knows—you can't even guess. Now, he stated, too, that Dr. Vinson had made a wreck of the Presbyterian College and therefore was not fit for it. Senators, I don't believe you can have forgotten what took place here on that proposition. There was some reference made to that, and I, speaking for the Board of Managers, told them, "If you want to go into Dr. Vinson's administration of that Presbyterian Institute, I am ready for you—ready for you. We will not have to go outside of Austin to get our witnesses. They are down here in the American National Bank. Mr. Wroe is the treasurer of the institution and knows all about its assets and liabilities. I am ready to make a show-down with you on that." Yes, but what did he care? I was even surprised at the Governor. The Governor quotes a second-hand quotation. You know Mr. Fiset was on the witness stand and he was telling about the effect of the Governor's giving Wilbur Allen \$5,000, that just before he got the five thousand dollar judgment remitted he said that Dr. Vinson was one of the greatest men of the age, that was about it—a wonderful educator, a man endowed by the Almighty with faculties far beyond that of the average man. But the day he got the judgment remitted he immediately concluded that Dr. Vinson was no man at all, that he had wrecked the only institution he was connected with, and was just an ordinary, plain preacher. I didn't believe that anybody would quote Wilbur's testimony

under those circumstances and I know that no Senator here would give credence to testimony coming through Mr. Fiset, because, if you believe Mr. Fiset, Wilbur changed his ideas about Dr. Vinson under circumstances that have produced considerable inquiry in this community. Why, even the Governor admitted when he was on the witness stand that Wilbur was not loyal to him down at Galveston. No, he could not place him, he could not depend on him. But the moment he got that judgment remitted, the moment that \$5,000 was practically poured into his lap, of your money and my money, from that moment on, Wilbur stood hitched. Yes. Don't quote him to prove the disqualification of Dr. Vinson, and particularly when after one experience with him in the House you did not feel like calling him back to the stand here. Now, I must pass that incident here quickly. I do not underestimate the importance of this situation; I am serious, never more so in my life, and when I tell you I have no political ambition, that I once had it but it is gone, thank God! I have no apology, however, to make for my appearance here. I am not even a criminal lawyer; I do no criminal practice either for the prosecution or the defense. I was asked to come here in the beginning of this business by a committee of the Legislature while at my home late after dinner—telephoned to by Judge Barry Miller, representing the committee in March. I accepted their terms and came, and because of my work then and there and my familiarity with the situation the same gentlemen insisted on my coming back to help them in the other investigation in the House. I didn't feel at liberty to refuse, and then when the articles of impeachment were preferred, as these gentlemen know who sit here before me, the Board of Managers, I insisted that they could take care of the situation quite as well as I, and I did not want to come back; but they insisted that I ought to come, and I am here. I have some ambition in this connection. You know we are engaged in a world war; our boys are going out in their uniforms and carrying the flag, carrying civilization and the ideals of this country to faroff lands. I have two of my own there; God grant that they all return, but when they do return I trust that we will have re-established

the ideals of the fathers, that a public office is a public trust, and that it cannot and must not be converted into a private snap. That to that proposition I am committed, and while in the private ranks as a private citizen I will never shirk the responsibility in attacking those who are high in power, whenever they transcend what I believe to be the law of the land.

Now, I am coming to one other question, and then I am going to close; I am going to leave the responsibility then with the Senators. One of the most reprehensible and to me most inexcusable things in this whole business is the borrowing of that \$156,500. Now, I am speaking plainly because there is no other way to speak. We had ascertained that it was true—and I think the Governor knew it—that he had deposited large amounts of currency in various banks; it was such an unusual circumstance that it was impossible to keep it concealed. Therefore, in the House of Representatives he admitted, voluntarily stated, that he had been on the verge of bankruptcy, and some of his friends had asked—at least come to his relief and had loaned him \$156,500 in cash, but with the distinct understanding that their names should never be disclosed. The House decided that he ought to disclose those names, still he declined to do it. I did not ask them to have him committed for contempt because I knew what the result would be, a habeas corpus case would be the result and we would be rushed off into a blind alley in a court procedure, instead of prosecuting the impeachment of the Governor. He came over here and he made the same statement. This Senate decided by an overwhelming majority that he ought to disclose the sources of that money—where he got it, from whom he got it and how he happened to get it. He declines to do it, and in a labored effort of two hours this morning he still declines to give that information. Now, I do not wish to be unjust, but I can not understand—I can not even get a glimpse of a thought or an idea that would make it possible for any friend of any man to lend him money, to risk his cash on him, and at the same time be ashamed or afraid to have it known who he is. You know, you have got

to judge normal men by yourself, and I ask any Senator here if he had a friend in trouble—in financial trouble and he wanted to help him, he was willing to help him and willing to risk his cash on him—wouldn't you go—you would go to him and give him your cash, wouldn't you, and at the same time tell him "I don't mind it being known that I am lending you the money"; and then last of all when I see—suppose, that I am the man that you are lending the money, and I am your friend and you are mine, when you see me embarrassed, when you see me suspected of having gotten that money from wrongful sources or under conditions that would do me discredit, is it possible for you or any other normal man to say "Don't disclose the fact that I let you have it; tarnish your name, suffer as much as you please, let your reputation for honesty and integrity be dragged down, but you must not disclose that I am your friend, that I am the man that let you have the money." Senators, I can not understand that, I can not even get inside of a circle that will enable me to see even a glimpse of a reason why any man would do that. Now, the American people are a loyal people, and the Governor knows he has some loyal friends, they have stood by him under all sorts of circumstances, and I can't, I can't understand why a man filling the high office of Governor, clothed with the powers that the Constitution and law clothe him with, with a proud people who want their Governor to be like Caesar's wife, not only honest, but above suspicion. I can not understand why he humiliates those people by asking them to let him borrow money under those circumstances; and yet not tell why or from whom he got it. Now, we know there are many sources that a Governor can not afford to get money from. We know that we hope that that is not it. We have given the Governor every opportunity to exonerate himself, and I think that he ought not to complain if an adverse decision should be rendered against him on that point, because, as I say, I can not see, I can not understand, and I do not believe any of you can understand any reason why any friend of his should suffer him to be put in that humiliating attitude now. If

there were no other reason, when a public official is found in the possession of \$156,500 in currency, brought to him and delivered to him, \$20,000 of it kept in a wooden desk in his office for thirty or sixty days, with banks all around him here, not confiding even to his private secretary that he has it—these circumstances are of such a character, and then when he is called upon to explain he declines, "for the reasons stated," if there were nothing else, that would justify impeachment.

Now, Senators, I have finished my task. I have not felt like talking to you this afternoon, but I have tried to do my duty as I understand it. I owe Governor Ferguson no ill-will, none whatever. I do not pretend to have agreed with him on political questions; I have not. But there are so many men with whom I have not agreed, and yet for whom I have a warm affection even; I am always glad of the fact and proud to know that some of my personal friends have not even been members of my own political party. I think that man who limits his friendship to his own church, his own creed, or his own policies, is a very narrow man indeed. But I feel that you owe more to Texas than you do to any one man. I know that there is no man here—no Senator here who will vote against Governor Ferguson because he does not like him; that would be mean, spiteful and low. I also believe that there is no Senator here who will refuse to vote against Governor Ferguson because he does like him, because a man who votes upon a public question like this to shield a friend, has not learned the first principles of American citizenship—not one. It is his duty to vindicate the law. And, now, Senators, unless you do, what may you expect in the future? If the Governor can violate the Constitution and furnish his grocery supplies, contrary to the statute, what may you expect of the average citizen. Now, I leave it to you, Senators, here—and you are business men—if you had furnished a ranch, hired a man for \$4,000.00 a year, and no more, and had given him the use of the ranch property to live in, and then he would use your money that you had given him for other purposes to handle your

estate, to buy groceries, you might not send him to the penitentiary, but you would do with him what we are trying to do with Governor Ferguson now—you would leave him out of that job; yes, he would not be that manager any more.

And now, Senators, let me ask you one more thing. If, in the face of a plain statute which says that it is a felony for any officer to deposit the public funds in any place except the State Treasury, it being open,—if you should overlook that now and say that they may deposit it in Kamschatka or anywhere else they please, just so they get them to the Treasury within ninety days, the statute notwithstanding, what may you expect of the next set of officers you get in here? And then that is not all, that is not all. Proud old imperial Texas, taking her place in the sisterhood of states, shall she have it go forth to the North, to the East, to the West, to the South, that Texas does not exact of her officials obedience to the law. Texas exacts that only of the unimportant fellow down home; that the average citizen may violate a statute and you send him to the penitentiary, and the Governor coolly considers whether he will pardon him. The Governor will violate that statute and you say to him, "Well done, thou faithful servant; thou hast been faithful in violating a few statutes, may you yet violate many more." That is the feeling.

Texas is on trial now, Senators. Being a part of Texas, I have that interest in it. It is to be determined whether Texas will stand up for vindication of the law and whether she will exact from her officers obedience to that law, or whether she will say: "You are licensed libertines, do whatever you please; the law was made for the underman, it was not made for you."

I thank you, Senators. This is my last appearance before you. I thank you for the courtesies which you have extended all of us during this strenuous, hard work of the last three weeks. If any of us have violated any of the rules under the stress of the moment, I sincerely apologize for it. We have tried to conduct the case fairly, we have tried to reach the correct con-

clusion, and I leave it in your hands now, with the most supreme confidence that you will do what you believe to be right.

The Chair: What is the pleasure of the Court?

Senator Hopkins: Mr. President.

Senator Bee: Let us have order, Mr. President.

The Chair: Order. The Senator from Denton.

Senator Hopkins: I move that we at this time proceed to consider the articles of impeachment, and vote on them one by one, according to the rules of this Court, in open session.

Senator Bee: Mr. President.

The Chair: The gentleman from Bexar.

Senator Bee: In furtherance of the motion of the gentleman from Denton, I believe that it would be proper under the rules as contemplated—it is a small matter—that the Senators, if possible, should occupy their seats when they cast their votes. I would like, as a Senator, to retain my seat and vote from my seat, if it would not cause too much confusion.

The Chair: If you are ready to begin voting on the articles of impeachment, then we will ask those who are visitors and within the range of the seats to please retire outside of the last row of seats on either side, so that the Senators may take their own seats at their own desks. The Senator from Denton moves that we now proceed, under Article 21, to vote on the articles of impeachment separately. Are you ready for the question on that motion—in open session? Those in favor of the motion will signify by saying "aye"; those opposed, "no." The ayes have it, and we will so proceed.

Senator Lattimore: Mr. President.

The Chair: The Senator from Tarrant.

Senator Lattimore: Is it the purpose of the Chair to have each article read and then vote on it?

The Chair: It is the purpose of the Chair, if not otherwise instructed by the Court, to have Article 1 read and then propound this question to the members of the Court, "Senators, is this article sustained? The Secretary will call the roll, and those who favor sustaining the article will answer 'aye'; those opposed 'no.'"

Senator Hudspeth: Mr. President, I rise on a point of information.

The Chair: The Senator from El Paso.

Senator Hudspeth: Will the Chair state to me, that in case any one article is sustained by a two-thirds vote, what the judgment of the Court will be in that instance, and how far it will carry.

The Chair: The judgment would be a judgment of conviction, under Rule 21. Under that rule we will proceed first, though, to have read and vote on all the articles of impeachment; we will vote on each and all of the articles of impeachment.

Senator Hudspeth: Will the Chair state whether that judgment would carry with it a removal from office and a disqualification for holding office in this State?

The Chair: No, sir, the Chair cannot state that; that will be for the members of the Court to determine that.

Senator Hudspeth: After each and every article has been voted on?

The Chair: Yes, sir.

Senator Bee: Will the Senator from El Paso yield?

The Chair: Will the Senator from El Paso yield to the Senator from Bexar?

Senator Hudspeth: Yes, sir; I yield.

Senator Bee: It occurs to me that there is a good deal of force in the suggestion made by the Senator from Tarrant this morning, that after the vote had been taken and the judgment rendered, a committee be appointed to confer with the Senator from Tarrant to formulate the form of judgment to be rendered in the Senate. That would cover the question, I think, asked by the Senator from El Paso.

Senator Hudspeth: I would like to ask the Senator from Bexar if that judgment, in his judgment, will be adopted by a majority or by a two-thirds vote?

Senator Bee: I will observe to the Senator from El Paso that I have not considered the question before, but I imagine that it will be by a two-thirds vote, though I am not prepared to pass on that question at this time, and I think that would be one of the matters to be considered in arriving at the judgment, though I am not prepared to answer that

question, because I have not considered it.

The Chair: Has the Senator from McLennan returned to the Chamber? I see the Senator from McLennan has returned.

Senator Hudspeth: I will state to the Chair that I think it is very essential to know these matters.

The Chair: Well, the Chair would not have the authority to decide these matters, nor is the Chair satisfied himself as to that question. The Chair is of the opinion—

Senator Hudspeth: I should think that the vote of the Senators upon these articles would determine the magnitude of the verdict reached.

The Chair: The Chair is of the opinion that that matter under the rule would be determined by the Court—the Senate sitting as a Court, after the articles have all been voted on.

Senator Hudspeth: Yes, sir. By what majority?

The Chair: Well, I can't say.

Senator Hudspeth: There is no rule covering that?

Senator Hopkins: Mr. President.

The Chair: The Senator from Denton.

Senator Hopkins: I would like to call Rule 21 to the attention of the Court. I think that settles the question. We will first vote on the articles, and then frame the judgment.

The Chair: Yes, sir. The Secretary will read Article 1.

Senator Bailey: Mr. President.

The Chair: Senator Bailey.

Senator Bailey: Mr. President, before this article is read, and before we vote, I ask that the roll of the Senate be called so that if any of the Senators are absent, opportunity may be given to get them here.

The Chair: All right. (To the Secretary): Call the roll.

Senator Bailey: There were two or three absent.

Senator Hudspeth: I don't understand, I can't hear the Senator from DeWitt.

Senator Bailey: I asked that the roll of the Senate be called.

Senator Hudspeth: Yes, sir.

Senator Bailey: So that if any of the Senators are absent they may be sent for. They all desire to vote.

The Chair: The Secretary will call the roll.

(Thereupon, the Secretary of the

Senate called the roll, as follows, to wit:)

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Parr.
Dechierd.	Robbins.
Floyd.	Smith.
Gibson.	Strickland.
Hall.	Sulter.
Harley.	Westbrook.
Henderson.	Woodward.

Senator Hudspeth: The Senator from Tarrant desires to be marked "present"; he has gone to answer a long distance telephone call.

The Secretary: The Senator from Fayette is absent.

The Chair: All are here except Senator Clark. I wish the Assistant Sergeant-at-Arms and the pages would try to locate Senator Clark, and tell him we are ready to begin voting.

The Secretary: Do you want to wait for him?

The Chair: Yes, wait just a minute and see if we can locate him.

Senator Caldwell: Mr. President.

The Chair: Senator Caldwell.

Senator Caldwell: I would like to ask if it would not be proper for the Court to pass upon the demurrers presented by the Respondent.

The Chair: Counsel for the Respondent said that they would ask for no vote on the demurrers, that was the statement of Mr. Hanger yesterday, that is the way the Chair understood him.

Senator Caldwell: They waive the demurrers then.

The Chair: That was his statement that they asked for no vote on them. Has anyone seen the Senator from Fayette for the last half hour?

Senator Hopkins: Mr. President, he has been absent all the afternoon.

Senator Bailey: He is in the building somewhere.

Senator Bee: Mr. President, I suggest that the Senator from Fayette may have anticipated a longer argument, in view of the time allotted General Crane. I think his hat is there, he must be somewhere about the building.

The Chair: The Senate is full. The Secretary will read the first article of impeachment.

Judge Martin: Mr. President.

The Chair: Judge Martin.

Judge Martin: I think the Chair probably misunderstood about Counsel for Respondent waiving the demurrers. What we stated was that we were willing to have them all considered together, and voted on together, so far as that is concerned; but we do not want to be placed in the attitude of waiving anything.

The Chair: Well, Mr. Hanger stated yesterday he asked for no separate vote on the demurrers.

Judge Martin: No, we are asking no separate vote, but we do not want to be placed in the attitude of having waived anything—that is, if we have any rights that are presented in the demurrers. We do not waive them.

Senator Bee: Mr. President, does Judge Martin yield?

The Chair: Does Judge Martin yield to the Senator from Bexar?

Judge Martin: Yes, sir.

Senator Bee: It occurs to me that the understanding would be that we vote, and if any Senator believes that a demurrer would lie to the charge, he would be justified in voting against the sustaining of that charge, because a demurrer should lie against it.

Judge Martin: Yes, sir, that was—

Senator Bee: I don't understand, Mr. President, that counsel intended to waive.

Judge Martin: No, sir.

The Chair: Just waive the separate vote. Of course, if a Senator believes that it is not impeachable matter, the Senator in that case will vote "No."

Judge Martin: As stated by the Senator from Bexar, our position was that we did not want to place upon the Senators the responsibility of a separate vote, but that they might consider the demurrers and the charges together, and that in the event, in their opinion, the demurrer should be sustained, that each Senator could so act on it in his vote, on the charge, that is the point.

The Chair: Yes, sir, the Chair understands it that way. Senator Clark, I will state for your information, that the Senate, by a unanimous vote, decided that we begin voting on these charges separately, as provided by

Rule 21. The Secretary will read Article 1.

Senator Hudspeth: Mr. President, as the roll is called, I move that each Senator rise in his seat in casting his vote.

The Chair: Let me finish the statement I was making to Senator Clark.

Senator Woodward: I agree with the Senator from El Paso, I think that would be a wise idea.

Senator Strickland: Mr. President, all the Senators are not as handsome as the Senator from El Paso, and I don't think that his motion is quite fair.

The Chair: Well, we will put the motion anyway. The Chair will state for the information of Senator Clark that during his absence from the Chamber—

Senator Woodward: Mr. President.

The Chair: The Chair would like to have an opportunity of finishing this statement to Senator Clark, if the Senator from Erath yields?

Senator Woodward: Yes, sir, pardon me.

The Chair (Resuming his statement to Senator Clark): By a unanimous vote the Senate decided that in voting on the articles of impeachment we would vote on each article separately, and that we will follow this procedure: The Secretary will read the articles in their order, and after each article is read the Chair will propound to the Senators this question: "Is this article of impeachment sustained?" Those who so find—and the Secretary will call the roll, and those who so find will answer "aye," and those who do not so find, will answer "no." Does the Senator from El Paso want his motion put?

Senator Hudspeth: Yes, sir.

The Chair: The Senator from El Paso moves, that as each Senator's name is called he rise at his place and answer "aye" or "no," as the case may be. Those in favor of the motion signify by saying "aye," those opposed, "no." The "ayes" have it.

Senator Bee: Mr. President.

The Chair: Senator Bee.

Senator Bee: The Senator from Erath asks recognition from the Chair.

Senator Woodward: Mr. President, I want to make a little inquiry,

and that is this, that under the rule is it necessary that all the charges be read?

The Chair: No, sir, one charge will be read and we will vote on that.

Senator Woodward: Yes, sir, I want to know whether it is necessary for the charges to be read.

The Chair: Yes, sir, I think so.

Senator Woodward: Can't we by motion eliminate that; that would take a long time.

The Chair: That won't take very long. The Chair himself would like to have the charges read before voting on them, because we can't remember them.

Senator Hudspeth: Mr. President.

The Chair: Senator Hudspeth.

Senator Hudspeth: I think it would be well at this time for the Chair to again recall to this audience that this is a solemn occasion, and there will be no demonstration whatever on the results of the voting. If people come here as idle curiosity seekers, they have got no business here or in the galleries.

The Chair: The Chair agrees most heartily in the statement of the Senator from El Paso. 'We can't for one moment tolerate any kind of demonstration for or against any man, the result of the vote as a whole, or against any man's vote, and we do not believe, having been thus admonished, that any in the gallery or in the Chamber will offend. The Secretary will read Article 1.

(The Secretary thereupon read Article 1, as follows, to wit:)

"That there was paid from the funds of the Canyon City Normal School deposited with the Temple State Bank on August 23, 1915, a note of \$5000 together with \$600 interest due by James E. Ferguson to the First National Bank of Temple, Texas. That said amount has never been refunded to the State of Texas. That in part payment of the total due for the building of the Canyon City Normal College he used other funds, a portion of which belonged to the State, and the balance being in his hands as Governor, and deposited to his credit as Governor in the American National Bank of Austin, which acts constitute a violation of law."

The Chair: Senators, what say you to this article of impeachment? Is it sustained or not sustained? Those who believe that it is sustained

will answer "aye" as their names are called; those who do not so believe will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—27.

Alderdice.	Hopkins.
Balley.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.
Henderson.	

Nays—4.

Clark.	Parr.
Hall.	Woodward.

The Secretary: Twenty-seven "ayes" and four "noes," Mr. President.

The Chair: There being twenty-seven "ayes" and four "noes," the article is sustained.

Senator Bee: Let's have order, Mr. President.

The Chair: Let's have order, perfect order.

(The following reasons, in writing, were sent up by members of the Court.)

Reasons for Vote.

The supreme moment has come. The clock has struck the hour when the issues between the Commonwealth of Texas and its Chief Executive must be decided. My relations with the Chief Executive have been politically and personally friendly. Every wish of my heart has been to vote against sustaining the articles or any of them, but my duty under my oath and to my people demands that I should vote to sustain charge Number One. I cannot believe that the Governor could remain ignorant of a transaction of the character charged in this article especially when the subsequent use of the funds in the Adjutant General's Department and the Highway Funds made up, together with his check for \$1800, the exact amount due to pay the note of \$5600 which was paid out

of the Canyon City funds—a trust fund.

The Senate has confronted a very serious and momentous situation, but believing that the evidence sustained the charge I vote "aye."

BEE.

I vote "no," on Article 1 of the impeachment charges against Governor James E. Ferguson, for the reason that the undisputed proof is that Governor Ferguson had no knowledge whatever of the use of the \$5600 of the Canyon City Normal Fund in the payment of an indebtedness of his; that it unquestionably and without any contradiction occurred by reason of a mistake on the part of the officers of the bank, with which Governor Ferguson was wholly unacquainted. And that in addition to all this, he has paid to the State of Texas every cent of money ever entrusted to him as Governor in every and any way, whatsoever, and does not owe the State of Texas one cent or one penny, having scrupulously accounted for all moneys entrusted to him.

CLARK.

I would gladly resign my seat as a Senator, if that would clear the Governor. He is my friend and I expect to continue to be his friend. I would do anything, in my power, for him on account of my friendship for him and his brother, A. M. Ferguson, who was my schoolmate at A. and M. College. But I owe a higher duty to the State than that of friendship or of sympathy to anyone. To shirk my duty, under the law and evidence, as my conscience dictates, would be worse than cowardly.

Believing beyond doubt that Article 1 has been proven, as alleged in the articles of impeachment, I vote "aye."

DAYTON.

The Chair: Read Article 2, Mr. Secretary.

(The Secretary thereupon read Article 2, as follows, to wit:)

"That James E. Ferguson received from former Governor O. B. Colquitt more than \$101,000, the proceeds from insurance policies on the Canyon City Normal School. That at the time said moneys were turned over to him they were on deposit in banks bearing interest at from four

and one-half to five per cent and which remained there for approximately one year, and that he deposited the other amounts in banks in which he was interested as a stockholder, and in the American National Bank, to which he shortly afterwards became indebted. That he received direct and personal profit as a stockholder of the Temple State Bank from the deposit placed with it; thus using and misapplying State funds for his individual benefit and profit."

The Chair: Before putting the question on this article, someone sent up his reasons without signing them. Was that the Senator from Fayette?

Senator Clark: No, sir, I will send up my reasons later, Mr. President.

The Chair: Someone, Senator Dayton?

Senator Dayton: Mr. President, that was mine.

Senator Clark: Mr. President, I want to state that I am going to vote "no" on everything, and I want to send up my reasons for every vote, I will state that; and I will send it up to the Journal Clerk.

The Chair: All right. Senators, the question is, shall this article be sustained or not sustained? Those who believe that it is sustained will answer "aye" as their names are called; those who do not so believe will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—26.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Dechard.	Smith.
Floyd.	Strickland.
Gibson.	Sulter.
Harley.	Westbrook.

Nays—5.

Clark.	Hudspeth.
Hall.	Woodward.
Parr.	

The Secretary (to the Chair): Twenty-six "ayes" and five "noes."

The Chair: There being twenty-six "ayes" and five "noes," Article 2 is sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court):

I vote "aye" to sustain charge 2 because former Governor Colquitt had the Canyon City fund amounting to \$101,000 in banks paying interest on same and giving a bond for safe keeping. Immediately upon Governor Ferguson's inauguration he began to transfer this fund to other banks without interest, and placed approximately \$50,000 of same in the Temple State Bank of which he was a stockholder and the same was loaned out by the Temple State Bank as appears from the statement of said bank. The Governor therefore derived the benefit from the use of State money in violation of law, and for that reason I have cast my vote as above stated.

BEE.

I vote "no" on Article 2 of the impeachment charges preferred against Governor James E. Ferguson, because the testimony shows that Governor James E. Ferguson, upon taking his office on January 19, 1915, and subsequent thereto, had turned over to him the sum of \$101,607.18 as money derived from insurance collected on the burned buildings of the Canyon City Normal School. Governor Ferguson exhibited to the Senate sitting as a Court of Impeachment, checks showing the payment of that exact sum of money, that is \$101,607.18, to the rebuilding of the buildings at said school, although counsel for the House Managers used every effort and made many insinuations that a larger sum was turned over to Governor Ferguson, but this effort wholly failed and Governor Ferguson's statement as to the amount received and its expenditure stands unchallenged in the record. Notwithstanding the fact that Governor Ferguson has been during his tenure in office entrusted with large sums of money, not one cent has ever yet been spent except for the purpose for which it was turned over to him and for which it was appropriated by the Legislature of the State of Texas. Not one cent is in his

hands now; his hands are entirely clean of the State's money or of any profit from it.

CLARK.

The Chair: The Secretary will read Article 3.

Senator Bee: Mr. President, I suggest, with respect to the gallery, that it is not necessary to move about when the vote is announced; they can keep their seats just as well when the roll is being called, and in this way save confusion.

The Chair: The suggestion is a wise one. We want you to remain perfectly still, because we want to conclude the vote as expeditiously as we may.

Senator Clark: Mr. President, I suggest that the Chair put a few rangers up there to preserve order.

Senator McNealus: I do not think that anybody is making as much noise as these pages running back and forth here, in and out the door.

The Chair: Do not call upon the pages at this time any more than you can help, Senators. (To the Secretary): Read Article 3.

(The Secretary thereupon read Article 3, as follows, to wit):

"Article 3. That James E. Ferguson testified under oath on March 11 and 12, 1917, before the House Investigating Committee that he had made arrangements with the Houston National Exchange Bank to take up two certain promissory notes, one signed by A. F. Ferguson and one signed by J. H. Davis, Jr., each for the sum of \$37,500. That he further testified that he was not indebted to the Temple State Bank at that time. That as a matter of fact, the indebtedness represented by the said notes was the personal indebtedness of the said James E. Ferguson, and the said notes had been executed by A. F. Ferguson and J. H. Davis, Jr., at the instance of James E. Ferguson, and for his accommodation. That he had guaranteed the payment of both of said notes, the makers whereof were utterly unable to pay them, which said fact was known to James E. Ferguson. That said notes were eventually transferred to the Houston National Exchange Bank for a period of about ten days only with the endorsement of and guarantee of the Temple State Bank, and the agreement to repurchase within a few days, and the added obligation that said Temple State

Bank should maintain, during the period of time the notes should be held by said Houston National Exchange Bank, on deposit with said bank, an average daily and compensating balance in amount equal to the total amount of said notes, to wit, \$75,000. That as a matter of fact, said James E. Ferguson was still liable on said notes, and same were transferred only for a period of ten days, and that said transfer of the notes was not bona fide."

The Chair: Senators, the question is, Shall this article be sustained? Those of you who believe the article should be sustained will answer "aye" as your names are called. Those who do not so believe will answer "no." The Secretary will call the roll.

Yeas—18.

Alderdice.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Collins.	Robbins.
Dechierd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Johnson of Hall.	Westbrook.

Nays—13.

Bailey.	Henderson.
Bee.	Hopkins.
Clark.	Hudspeth.
Dayton.	McCollum.
Dean.	Parr.
Hall.	Woodward.
Harley.	

The Secretary (to the Chair): Eighteen "ayes" and thirteen "noes."

The Chair: There being eighteen "ayes" and thirteen "noes," this article is not sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court:

I vote "no" on Article 3 because while I believe that the conduct was improper the Governor has stated that when he transferred the notes of James H. Davis, Jr., and A. F. Ferguson he guaranteed the payment of said notes, and as he was solvent the Houston National Exchange Bank, to which the said notes were temporarily transferred was protected. This transaction does not involve the conduct of the State af-

fairs, but was an affair dealing with the Governor's private indebtedness. I believe that while it ought to be condemned, it is not impeachable.

BEA.

I vote "no" on Article 3 of the impeachment charges against Governor James E. Ferguson, because the testimony shows that on the 11th and 12th days of March, 1917, while the Governor was being heard before the House Investigating Committee appointed to inquire into certain charges against him, the two notes, one signed by A. F. Ferguson and the other by J. H. Davis, Jr., each for the sum of \$37,500, and payable to the Temple State Bank, had been taken up by the Houston National Exchange Bank and sold to that bank, and while it has been claimed by counsel for the House Managers that the sale was not genuine and was one only arranged in order that the time during which the Investigating Committee would be in session might pass by, yet all the evidence contradicts and conclusively disproves this theory of the claim. The president of the Houston bank testified that he bought the notes; the Governor testified that he sold the notes; no witness has testified to the contrary, and this charge, therefore, wholly fails in proof.

CLARK.

The Chair: The Secretary will read Article 4.

(The Secretary thereupon read Article 4, as follows, to wit):

"Article 4. That James E. Ferguson testified before the House Investigating Committee within sixty days prior to his giving said testimony he had caused to be paid into the Temple State Bank \$112,500 and \$15,000. In other words, \$127,500 in cash to the Temple State Bank. That as a matter of fact, \$75,000 of said amount was represented by the A. F. Ferguson note and the J. H. Davis note of \$37,500 each, and that same were not paid to the Temple State Bank in cash, but were only transferred to the Houston National Exchange Bank to be held for a period of about ten days. That as a matter of fact said notes were still due by James E. Ferguson, because the makers within his knowledge were not able to pay same, and he had guaranteed them in writing to

the Temple State Bank. That said transfer did not relieve the Temple State Bank of the excessive loan of James E. Ferguson, because said two notes were endorsed and payment guaranteed by the Temple State Bank; and the said James E. Ferguson and the Temple State Bank knew that after a period of about ten days said notes could be returned to the Temple State Bank. That said two notes were actually returned to the Temple State Bank, and that after said committee had adjourned the Temple State Bank was carrying again the same two notes in violation of the laws of the State of Texas."

The Chair: Senators, the question is: Shall Article 4 be sustained? Those who find that Article 4 should be sustained will answer "aye" as their names are called; those opposed will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll as follows, to wit):

Yeas—18.

Alderdice.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Collins.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Sulter.
Johnson of Hall.	Westbrook.

Nays—13.

Bailey.	Henderson.
Bee.	Hopkins.
Clark.	Hudspeth.
Dayton.	McCollum.
Dean.	Parr.
Hall.	Woodward.
Harley.	

The Secretary (To the Chair): Eighteen "ayes" and thirteen "noes," Mr. President.

The Chair: There being eighteen "ayes" and thirteen "noes," Article 4 is not sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court, to wit:)

I assign the same reason for my vote for Articles 4 and 5 as given for my vote on Article 3.

BEE.

I vote "no" on Article 4 of the articles of impeachment preferred against Governor James E. Ferguson, for the reasons stated above under Articles 2 and 3, and for the additional reason that the time of such investigation, to wit: On the 11th and 12th days of March, 1917, the two notes in question were abundantly secured by collateral of unquestioned and undoubted value; that they had been sold in a bona fide transaction and trade by the Temple State Bank to the Houston National Exchange Bank; that they were returned at the request of the president of the Temple State Bank, which request was unknown to the Governor and as soon as it was discovered by the Governor he demanded that said notes be returned to said Houston bank, and that by reason of the facts and circumstances and agreement concerning the original loan, which these two notes in part represented, said loan was not in violation of either the spirit or the letter of the banking laws of Texas.

CLARK.

The Chair: The Secretary will read Article 5.

(Thereupon, the Secretary read Article 5, as follows, to wit:)

"Article 5. That James E. Ferguson testified under oath before the House Investigating Committee on March 11 and 12, 1917, that he was not indebted to the Temple State Bank. That at said time he owed the said bank a note for \$11,243.07, on which there had been paid by him on February 13, 1917, and less than a month before he testified, the sum of about \$3,029.00, leaving a balance due on said note of more than \$8,000, which was then owing to the Temple State Bank, and was not paid until June 16, 1917."

The Chair: Senators, the question is, shall Article 5 be sustained? Those who find that said Article 5 shall be sustained, will answer "aye" as their names are called; those opposed, "no." The Secretary will call the roll.

(The Secretary thereupon proceeded to call the roll as follows, to wit:)

Yeas—14.

Alderdice.	Caldwell.
Buchanan of Bell.	Collins.
Buchanan of Scurry.	Dean.

Decherd.	Smith.
Johnson of Hall.	Strickland.
McNealus.	Suiter.
Robbins.	Westbrook.

Nays—17

Bailey.	Hopkins.
Bee.	Hudspeth.
Clark.	Johnston of Harris.
Dayton.	Lattimore.
Floyd.	McCollum.
Gibson.	Page.
Hall.	Parr.
Harley.	Woodward.
Henderson.	

The Secretary (To the Chair): Fourteen "ayes" and seventeen "noes."

The Chair: There being fourteen "ayes" and seventeen "noes," Article 5 is not sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court, to wit:)

I assign the same reason for my vote for Articles 4 and 5 as given for my vote on Article 3.

BEE.

I vote "no" on Article 5 of the impeachment charges preferred against Governor James E. Ferguson because the undisputed testimony is that at the time the Governor testified before the House Investigating Committee, on the 11th and 12th days of March, 1917, he did not know that the note known as the Whitley Cotton Company note, and which is otherwise described as the Alex Mears & Co. note, was owned by the Temple State Bank; and for the further reason that all of the testimony disputes the charge and claim that the Governor knowingly misstated any fact in connection with the said Whitley Cotton Company note.

CLARK.

The Chair: The Secretary will read Article 6.

(The Secretary thereupon read Article 6, as follows, to wit:)

"Article 6. That there was deposited by James E. Ferguson, in the Temple State Bank on or about the month of January, 1917, the sum of \$60,000 belonging to the State of Texas, and in the possession of the Secretary of State by virtue of his office, said

amount being represented by a check of the Secretary of State, although the State Treasury was open for the purpose of receiving same. That James E. Ferguson was a stockholder in said bank, owning more than one-fourth of the stock, and that the said Temple State Bank and James E. Ferguson used said fund and received the profit and benefit, the said James E. Ferguson receiving more than one-fourth of the profits and of the benefits."

The Chair: Senators, the question is, shall Article 6 be sustained? Those who believe that said Article 6 shall be sustained, will answer "aye," when their names are called; those who do not so believe, will answer "No." The Secretary will call the roll.

(The Secretary thereupon called the roll, as follows, to wit:)

Yeas—24.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McCollum.
Caldwell.	McNealus.
Collins.	Page.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.

Nays—7.

Clark.	Johnston of Harris.
Dayton.	Parr.
Hall.	Woodward.
Hudspeth.	

The Secretary (To the Chair): Twenty-four "ayes" and seven "noes."

The Chair: There being twenty-four "ayes" and seven "noes," Article 6 is sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court, to wit:)

I vote "aye" on Article 6 because I believe that as soon as the money is properly cleared it ought to be deposited in the State Treasury as contemplated by law. The evidence under this charge shows that the Governor secured a check from the Secretary of State and took same at night to Temple and deposited in the Temple State Bank, in which he was

a stockholder and for the purpose of arranging a difficulty existing between himself and the Board of Directors by giving the said bank a large deposit. This constituted a misapplication of funds under the law.

BEE.

I vote "no" on Article 6 of the articles of impeachment preferred against Governor James E. Ferguson for the reason that under Article 3836 of the Revised Civil Statutes of 1911, I believe that franchise taxes are only required to be settled for with the State Treasurer every ninety days; that by the express terms of Articles 3837, 3838, 3839 and 3840, only the fees of office are required to be paid into the State Treasury monthly. An entirely different, separate and distinct chapter of the statute is devoted to the subject of franchise taxes, and, therefore, I have satisfied myself that the settlement of the franchise taxes are only required quarterly. This being true, it was necessary to put the amount of money mentioned in this article, to wit: \$60,000, in some bank, because the time had not arrived in which it could or was required to be placed in the State Treasury. One bank, if safe, was as good as another, and the fact that all of this money, and much more besides, has already been turned in and that the Treasurer was settled with promptly at the time when such settlements were required to be made, is convincing of the proof that placing it on deposit in the Temple State Bank did not in any way endanger its safety. Therefore, most manifestly, this charge is not made out.

CLARK.

The Chair: The Secretary will read Article 7.

(The Secretary thereupon read Article 7, as follows, to wit:)

That on or about May 29, 1917, James E. Ferguson accompanied T. H. Heard, president of the Temple State Bank, to the American National Bank at Austin, and the said T. H. Heard deposited to the credit of the Temple State Bank, with the knowledge and consent of the said James E. Ferguson, the sum of \$250,000.00 of the funds belonging to the State of Texas and in the possession of the Secretary of State, said funds being represented by five checks

drawn by the Secretary of State in the sum of \$50,000 each, although the State Treasury was then and there open for the purpose of receiving same. That the said James E. Ferguson owned more than one-fourth of the stock of the Temple State Bank and that said amount was used by the Temple State Bank for its own profit and benefit, more than one-fourth of which profit and benefit belonged to James E. Ferguson.

The Chair: Senators, the question is, shall Article 7 be sustained? You who find that said Article shall be sustained, will answer "aye" as your names are called; those of you who find it shall not be sustained, will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, as follows, to wit:)

Yeas—26.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.

Nays—5.

Clark.	Parr.
Hall.	Woodward.
Hudspeth.	

The Secretary (To the Chair): Twenty-six "ayes" and five "nops," Mr. President.

The Chair: There being twenty-six "ayes" and five "noes," Article 7 is sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court, to wit:)

I vote "aye" on Article 7 because the Governor after the investigation in the House in March of 1917 accompanied by the President of the Temple State Bank deposited with the American National Bank of Austin, \$250,000 of the State's funds,

which should have been transferred to the Treasury, and the American National Bank paid to the Temple State Bank of which the Governor was a stockholder interest on said deposit, and this in my opinion constituted a violation of law.

BEE.

I vote "no" on Article 7 of the impeachment charges preferred against Governor James E. Ferguson, for the same reasons as just set forth with reference to Article 6, and for the still further reason that the undisputed proof is that the Governor knew nothing about any interest arrangement between any of the Austin banks and the Temple State Bank and believed that in truth and in fact no interest would be paid by the American National Bank, or any other Austin bank, to the Temple State Bank in view of the short time that would lapse between the times of depositing the moneys mentioned in these articles and the times when settlements were required by law to be made with the State Treasurer. The unquestioned proof is that the question of profit or benefit to the Governor never entered his mind and was not considered by him. There is no proof that it was. The Governor's testimony is uncontradicted that it did not. And, therefore, this charge is not sustained.

CLARK.

The Chair: The Secretary will Read Article 8.

(The Secretary thereupon read Article 8, as follows, to wit:)

"Article 8. That James E. Ferguson sought to have the State Highway Commissioner deposit State funds of that department with the Temple State Bank so that said bank might receive the profit and benefit from same, and he being a heavy stockholder, would have received a portion of the benefits. That he also had, or permitted, other departments of the State government to deposit money with the Temple State Bank, or with other banks, to the credit of the Temple State Bank, said amounts belonging to the State of Texas, and that the Temple State Bank profited from the use of said funds, and that said James E. Ferguson received more than one-fourth of the profit and benefit."

The Chair: Senators, the question is, shall Article 8 be sustained? Those

who believe that said Article 8 should be sustained, will answer "aye" as their names are called; those who do not so believe, will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, as follows, to wit:)

Yeas—9.

Alderdice.	Decherd.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Lattimore.
Caldwell.	Westbrook.
Collins.	

Nays—22.

Bailey.	Hudspeth.
Bee.	Johnston of Harris.
Clark.	McCollum.
Dayton.	McNealus.
Dean.	Page.
Floyd.	Parr.
Gibson.	Robbins.
Hall.	Smith.
Harley.	Strickland.
Henderson.	Suiter.
Hopkins.	Woodward.

The Secretary (to the Chair): Nine "ayes" and 22 "noes."

The Chair: There being nine "ayes" and twenty-two "noes," the article is not sustained.

(The following written reasons were sent up by members of the Court, to wit:)

Reason for Vote.

I do not consider that there is any merit in Charge 8,

BEE.

I vote "no" on Article 8 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that the testimony of the Hon. Curtis Hancock, chairman of the State Highway Commission, establishes beyond any doubt that the Governor only offered to recommend that the Temple State Bank help accommodate the State Highway Commission in collecting checks sent to the Commission under the law passed by the Thirty-fifth Legislature. Why any one should or could insist upon this charge it is impossible for me to conceive. The only witness introduced was the Hon. Curtis Hancock. He plainly exonerates the Governor, and there is and should be no question about this charge being wholly unsupported by the proof, or by any proof whatsoever.

CLARK.

I want to incorporate in the Journal, as a matter of record, my reasons for voting against the above Article of Impeachment, this reason being that I do not believe the offense complained of would justify the severe punishment of removal from office. Although I feel that the Governor has misused the authority vested in him and has committed a gross error, it hardly justifies punishment above suggested.

ROBBINS.

I vote "no" on this article, for the reason that the same is too general, and is in part not sustained, and part covered by and incorporated in other articles.

HARLEY.

I vote "no" on Article 8, because the charge is vague and indefinite, and for the further reason that the evidence relating to the Governor's seeking to have the State Highway Commissioner deposit the funds of that Commission with Temple State Bank, was not conclusive, and therefore the charge is not substantiated.

SMITH.

The proof as to Article 8 shows that the Governor requested the Chairman of the Highway Commission to deposit checks in the Temple State Bank for the purpose of collecting the checks and transferring the money to the Treasurer. In other words, it was only a clearing proposition. And for that reason, not in violation of the law. The latter part of the charge complains of his having permitted other departments to deposit money in the Temple State Bank, or with other banks, to the credit of the Temple State Bank. It appears to me that these officers are responsible for their own acts, and if they have acted in violation of the law, that they should be punished therefor, and that the mere permission of the deposit in the Temple State Bank is not sufficient grounds for impeachment, I therefore, vote "no."

SUITER.

Senator Gibson: Mr. President.

The Chair: Senator Gibson.

Senator Gibson: I desire to call attention to the fact that in Article 9 is incorporated a series of articles that have been voted on, some of them one way and some another,

and it is impossible for this Senate to vote on those articles as named there, as I conceive it, as they would like to vote.

The Chair: Each Senator will have to decide that for himself, the Chair will state.

Senator Bee: Will the Senator yield?

Senator Gibson: I yield to the Senator from Bexar.

Senator Bee: I suggest that on that vote we passed on Section (a) and Section (b) and Section (c), each having been voted on before, either "aye" or "no," and if it had already been voted on before—Sections (a), (b) and (c), a man can't vote aye or no now because he voted on it before. I suggest, therefore, that we pass on the demurrer and then vote on Section (c).

Senator Bailey: Mr. President.

The Chair: The Senator from DeWitt.

Senator Bailey: Mr. President, I would suggest to the Chair that they are bound to vote on the articles, and that if any Senator finds himself in such a position here as having voted for one and against the other, he can keep his record straight by being marked "present and not voting" on this article, all of (a), (b) and (c) having been voted on, some of the Senators voting "aye" on some of them and "no" on the other.

The Chair: Let's have order.

Senator Bailey: It seems to be a summary of the three articles and then a conclusion in each, a conclusion of law. I think if a Senator does not care to vote on it he can be marked "present."

The Chair: That suggestion can be adopted by any Senator who desires it.

Senator Gibson: Does the Chair rule that we shall take this article and vote on it by subdivisions, allowing each Senator to use his prerogative of being marked "present and not voting" if he so desires?

The Chair: I think so. I do not think, however, under the rules we can subdivide the article; it is presented as a single article and we will have to vote on it as a single article.

Senator Gibson: Mr. President, I do not desire to take up any time, but wanted to facilitate matters.

Senator Suiter: Mr. President.

The Chair: Senator Suiter:

Senator Suiter: As a matter of

information I would like to know if this article 9 involves more than one charge? It seems to me there is only one charge in the article. (a), (b) and (c) as set out in paragraphs are only explanatory of that charge, (b) being a summary of the charge, and for that reason there is only one charge in Article 9.

The Chair: I will have the Secretary read the charge and then each member of the Court must decide the question for himself and vote as his judgment—

Senator Hopkins: Mr. President, doesn't the Chair construe this charge to be charging the same offenses as were charged in Articles 6 and 7, just as you charge the same offenses in an indictment under several different counts?

Senator Clark: Mr. President, I move that we proceed to vote. If these Senators don't know how to vote, if they will ask me I will tell them. (Laughter.)

Senator Hopkins: There is one additional charge, that is (c), touching the Commissioner of Banking and Insurance, and if there is any way by which we could do so I believe it would be well to eliminate Sections (a) and (b) and then vote upon that article with Section (c) remaining. If we sustain two charges on the same article, won't we sustain this charge by having already sustained Articles 6 and 7?

The Chair: The Chair does not feel that it is one of his prerogatives to try to explain the charges to the Senators, they all being members of the Court. The Secretary will call the roll.

The Secretary: I have not read the charge yet.

The Chair: Read the charge, then. Let's have attention to the reading of Article 9.

The Secretary (reading): "Article 9. That the said James E. Ferguson has himself deposited, or caused or permitted to be deposited, funds in banks when the Treasury of the State of Texas was open for business, which funds should have been in the State Treasury. That he has used and permitted the use of funds by officers appointed by him for purposes other than the paying of same into the Treasury of this State, said funds being substantially as follows:

"(a) That about the month of

January, 1917, he deposited with the Temple State Bank the sum of \$60,000 of funds in the possession of the Secretary of State.

"(b) That on May 29, 1917, in company with T. H. Heard, president of the Temple State Bank, he permitted the deposit of funds in the possession of the Secretary of State to the credit of the Temple State Bank in an amount of \$250,000.

"(c) That he permitted the Commissioner of the Insurance and Banking Department to deposit funds during the year 1916 with the Temple State Bank in an amount of more than \$101,000.

"(d) That each and all of the above acts were knowingly and willfully committed by the said James E. Ferguson."

The Chair: Senators, the question is: Shall Article 9 be sustained? Those of you who find that said Article 9 should be sustained will answer "aye" as your names are called; those who do not so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit):

Yeas—15.

Alderdice.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Robbins.
Collins.	Smith.
Decherd.	Strickland.
Gibson.	Suiter.
Henderson.	Westbrook.
Johnson of Hall.	

Nays—12.

Bee.	Harley.
Clark.	Hopkins.
Dayton.	Hudspeth.
Dean.	McCollum.
Floyd.	Parr.
Hall.	Woodward.

Present—Not Voting.

Bailey.	Johnston of Harris.
Buchanan of Bell.	Page.

The Chair: There being 15 "ayes," 12 "noes," 4 present and not voting, the article is not sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court.)

I feel that Article 9 has been dis-

posed of by Articles 6 and 7, and that a demurrer should be sustained to subsection (c).

BEE.

I vote "no" on Article 9, and on subdivisions (a) and (b) thereof, for the reasons already set forth with reference to Articles 6 and 7, and on subdivision (c) for the reason that the proof wholly fails on this subdivision. The Governor testified that he did not know until after the deposit was made by the late Commissioner of Insurance and Banking, the Hon. John S. Patterson, that any deposit was to be or had been made; that he knew nothing about any arrangement about any interest on the deposit, if in fact any such arrangement was ever made; that he had no knowledge that said deposit was in contemplation and did not advise or suggest that Mr. Patterson make such deposit. This testimony is not denied—not disputed by any witness, and the charge has wholly failed of substantiation.

CLARK.

I vote "no" on Article 9 for the reason the charges contained in same are included in Articles 6 and 7.

FLOYD.

I vote "no" for the reason that this article is incorporated in other articles.

HARLEY.

The Chair: The Secretary will read Article 10.

The Secretary (reading): "Article 10. That on March 3, 1917, he stated in a public speech before the House of Representatives, which body had under consideration a resolution to investigate charges of official misconduct against him (one of said charges being borrowing more money from the Temple State Bank than was authorized by the laws of Texas), that he was not indebted to the said bank in any amount whatsoever, when as a matter of fact he was indebted to same at that time for more than was authorized by law."

The Chair: Senators, the question is: Shall Article 10 be sustained? Those of you who find that said article should be sustained will answer "aye" as your names are called; those who fail to so find will answer

"no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—13.

Alderdice.	Johnson of Hall.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Strickland.
Collins.	Sulter.
Decherd.	Westbrook.
Floyd.	

Nays—18.

Bailey.	Hopkins.
Bee.	Hudspeth.
Clark.	Johnston of Harris.
Dayton.	McCullum.
Dean.	Page.
Gibson.	Parr.
Hall.	Robbins.
Harley.	Smith.
Henderson.	Woodward.

The Chair: The Senator from Dallas is not in the Chamber.

Senator Bee: I suggest that we suspend for a minute until he returns.

Senator Hudspeth: He can be recorded when he comes in.

The Chair: We can record him when he comes in.

The Secretary: 12 "ayes" and 18 "noes," Mr. President.

The Chair: There being 12 "ayes" and 18 "noes," Article 10 is not sustained.

Reason for Vote.

(The following written reasons were sent up by members of the Court):

I vote "no" on Article 10 because it is covered by Articles 3 and 4.

BEE.

I vote "no" on Article 10 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that the evidence shows that at the time mentioned in said article, to wit: on March 3, 1917, all of the indebtedness of the Governor to the Temple State Bank, had been taken up by the Governor by four notes, each for the sum of \$37,500; that one of said notes was a personal note of the Governor and at that time had already been fully paid off; one of said notes was a note of the Bell-Bosque Stock Farm and was not the Governor's personal obligation; that

the other two notes had been executed by A. F. Ferguson and J. H. Davis, Jr., with collateral attached to secure the payment of said notes, and the statements referred to in Article 10 of said charges are true, all of which is fully sustained by the entire proof.

CLARK.

I want to incorporate in the Journal, as a matter of record, my reasons for voting against the above Article of Impeachment. This reason being that I do not believe the offense complained of would justify the severe punishment of removal from office, although I feel that the Governor has misused the authority vested in him and has committed a gross error, it hardly justifies punishment above suggested.

ROBBINS.

The Chair: The Secretary will read Article 11.

The Secretary (reading): "Article 11. That in the investigation of James E. Ferguson by the Committee of the Whole House of Representatives said James E. Ferguson testified that during the Regular Session of the Thirty-fifth Legislature and shortly thereafter he received from parties certain currency in varying amounts, the total of which was about \$156,500. That said transaction is unusual and questionable, and that the said James E. Ferguson when questioned as to who loaned him this money declined to answer, although the officer of the Committee of the Whole appointed to pass on the admissibility of testimony ruled that he should answer, and the Committee sustained said ruling. That he is thus not only in contempt of the House and its committee, but he insists that he is not required to give before the representatives of the people of Texas an accounting of said \$156,500 in currency, which he received during sessions of the Legislature or shortly thereafter, and the receipt of such sums in currency, and the failure to account for same, constitutes official misconduct."

The Chair: Senators, the question is: Shall Article 11 be sustained?

Senator McNealus: I wish to state that I was out of the Chamber when the vote was taken—when Article 10 was read.

The Chair: It was agreed that

you might have consent to record your vote when you came in.

Senator McNealus: I desire unanimous consent to be marked as voting that Article 10 be sustained.

(The Secretary thereupon called the roll, the vote being as follows, to wit):

Yeas—27.

Alderdice.	Hopkins.
Balley.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.
Henderson.	

Nays—4.

Clark.	Parr.
Hall.	Woodward.

The Chair: There being 27 "ayes" and 4 "noes," Article 11 is sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court):

I vote "aye" on Article 11 because, as I have heretofore stated, sound public policy and good government demands that the Governor of this State shall not borrow money in large amounts, secure the money in currency in a secret manner and refuse to disclose the source thereof.
BEE.

I vote "no" on Article 11 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that the Governor testified, both in the House of Representatives and before the Senate of Texas sitting as a High Court of Impeachment, that the transaction concerning his borrowing the \$156,500 was open and above-board; an honest day-light transaction between himself and gentlemen who were not interested in any way in legislation, departmental matters, or any other like questions. That he did not obtain said money from the head of any department. Inasmuch as this article does not allege any corruption in office, I vote

"no," because this was a private personal transaction of the Governor, proved by him and undisputed by the evidence to have been guiltless of any impropriety of any character whatever. The Governor of Texas has bared his private affairs to the inspection of the public time and again, and the fact that he had given his word that he would not disclose the source from which he borrowed this money, nor the names of those who loaned it to him, is a tribute to his determination to keep his word inviolate. This charge ought not to be sustained, and the House Managers have wholly failed to show that it is an impeachable transaction, and have failed even to show that it is an impropriety.

CLARK.

Reason for voting "no" as I did on the submission of the matter to the Senate by the presiding officer, as to whether or not the Governor should answer the question as to the source from which came the \$156,500: In my judgment, when he refused to answer the question, he convicted himself upon the charge embraced in the article covering this matter. For this reason I will be forced to sustain this count.

HUDSPETH.

Senator Hudspeth: Mr. President, Article 12, it occurs to me, is the exact charge that is embraced in Article 1. Isn't that a fact? I ask if Article 12 is not the same charge, virtually the same matter, embraced in Article 1. If so, I want to be recorded as present and not voting.

Senator Bee: Will the Senator yield?

Senator Hudspeth: Do you consider that it is the same money he is charged with converting in Article 1?

Senator Bee: The first is with reference to the Canyon City funds; the other refers to the Adjutant General's fund.

Senator Hudspeth: That is true, but it is the same money; it is the same in one place as in another, according to the testimony.

Senator Bee: It is two separate things.

Senator Hudspeth: What is the ruling of the Chair?

The Chair: Let the article be read. The Chair is of the opinion that it is not the same thing. I don't

know that the Chair should state that, though.

The Secretary: Which one does he want read?

The Chair: Read Article 12.

The Secretary (reading): "Article 12. That James E. Ferguson had on deposit during the year 1916 in the American National Bank to his account as Governor certain sums of money belonging to the Adjutant General's Department of Texas aggregating more than \$3,000, said funds being the property of the State of Texas, but set aside for that department. That in violation of the statutes of Texas he diverted these funds from their lawful purpose and paid same as a portion of the amount for the construction of buildings of the Normal College located at Canyon City."

The Chair: Senators, the question is: Shall Article 12 be sustained? Those of you who find that said article should be sustained will answer "aye" as your names are called; those who do not so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit):

Yeas—27.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.
Henderson.	

Nays—4.

Clark.	Parr.
Hall.	Woodward.

Senator Hudspeth: I desire to vote to sustain this charge.

The Chair: Senator Hudspeth votes "aye."

Senator Dayton: Mr. President, after reading it, I am mistaken. I vote "aye."

The Chair: Senator Dayton votes "aye." There being 27 "ayes" and 4 "noes," Article 12 is sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "aye" on Article 12 because the evidence develops that the \$5600 referred to in Article 1 taken from the Canyon City Fund, was replaced in part by money belonging to the Adjutant General's fund, and therefore the said Adjutant General's Fund was diverted in violation of law.

BEE.

I vote "no" on Article 12 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that the sum mentioned in this article being closely connected with the facts concerning the first article of impeachment, and because the facts showing that the Governor has wholly and entirely settled with Acting Governor Hobby for every cent ever turned over to him by the State, and that he never knowingly used a cent of the State's money; that he scrupulously spent every cent of the State's funds turned over to him in an economical business-like manner and way for the purposes for which it was intended. This charge is not in any way or sense sustained by the proof.

CLARK.

The Chair: The Secretary will read Article 13.

The Secretary (reading): "Article 13. That at the former investigation of Governor James E. Ferguson, he was specifically charged with the misapplication of moneys of the State of Texas in the purchase of groceries, feed, automobile tires, gasoline, etc. The committee appointed by the House of Representatives found that he did so misapply several thousand dollars and converted same to his own use in the purchase of the items above enumerated. That before said committee Governor Ferguson testified under oath that if the case of Middleton vs. Terrell, Comptroller, should be decided by the Supreme Court against him that he would refund to the State of Texas such amounts misappropriated by him in accordance with said decision. The Supreme Court long ago refused an application for writ of error and overruled a motion for rehearing,

thus deciding against him, but James E. Ferguson is still indebted under said decision to the State of Texas for groceries, feed, automobile tires, gasoline, etc., which were for his private use but which were paid with State funds, and he has failed to pay same in accordance with his oath before said Committee of the House of Representatives. The report of the House Investigating Committee stated that the charge of misapplication of funds should not justify the serious penalty of impeachment, inasmuch as Governor Ferguson had testified that he would promptly pay said amounts to the State, and that in the judgment of the committee this agreement to repay should be considered in connection with the good faith of the Governor. That the said James E. Ferguson was guilty of misapplication of the appropriation made by the Legislature for fuel, lights, ice and incidentals, in that he used same in the purchase of groceries, feed, automobile tires, gasoline, etc., for his private use, and that his refusal to repay said funds constitute a continued misapplication of the public funds of Texas."

The Chair: Senators, the question is: Shall Article 13 be sustained? Those of you who believe that said article should be sustained will answer "aye" as your names are called; those of you who do not so believe will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows to wit:)

Yeas—15.

Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Sulter.
Johnson of Hall.	Westbrook.
Johnston of Harris.	

Nays—16.

Alderdice.	Harley.
Bailey.	Henderson.
Bee.	Hopkins.
Clark.	Hudspeth.
Collins.	McCollum.
Dayton.	Page.
Gibson.	Parr.
Hall.	Woodward.

Reasons for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "no" on Article 13. While I believe the Governor ought not to have used the money appropriated by the Legislature for the purchase of groceries and automobile accessories, etc., yet the Legislature had appropriated the money and his misconduct in my judgment is not sufficiently grave to constitute an impeachable offence.

BEE.

I vote "no" on Article 13 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that the Legislature of Texas, by its solemn Act appropriating the sum of money named to pay for just such articles and items as were expended under it, and knowing at the time the appropriation was made the purposes for which it would be spent. Notwithstanding this, and notwithstanding the fact that the Legislature authorized in the first instance the expenditure of these sums, the Governor has paid back every cent claimed and still more, even going to the extent of paying for the workmen about the mansion and grounds, a thing never before done, so far as I know, by any Governor in the history of this State. This charge is without proof and can not be sustained.

CLARK.

Mr. President, the facts sustain the charge, but there are some extenuating circumstances in this case. The Legislature made the appropriation, and for that reason I do not believe it would be impeachable, and vote "no."

COLLINS.

Mr. President, I desire to say that I will have to vote "no" on this, for the reasons stated by the Senator from Jefferson, although there is one circumstance in the investigation in the House which makes it culpable in my mind.

GIBSON.

Mr. President, I think there is evidence of culpability, but on account of the fact that the Legislature made an appropriation there are many extenuating circumstances.

I have serious doubt as to the criminal intent and vote "no."

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Senator Hudspeth: Mr. President, after reading the demurrers it occurs to me that it was by authority of law; the appropriation was passed by the Legislature and I vote "no."

The Chair: There being 15 "ayes" and 16 "noes," Article 13 is not sustained.

The Chair: The Secretary will read Article 14.

The Secretary (reading): "Article 14. That by an express provision of the Constitution and his oath of office the Governor is bound to enforce all laws of the State of Texas. The laws of Texas during the period of his administration expressly forbade State banks to lend money in excess of 30 per cent of its capital stock. This was known to the Governor, yet in violation of this provision of the law he induced the officers of the Temple State Bank to lend to him, James E. Ferguson, an amount far in excess of that authorized by law, which loans were made during the years 1916 and 1917."

The Chair: Senators, the question is: Shall Article 14 be sustained? Those of you who find that said article should be sustained will answer "aye" as your names are called; those who do not so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—26.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.

Nays—5.

Clark.	Parr.
Hall.	Woodward.
Hudspeth	

The Chair: There being twenty-six "ayes" and five "noes," Article 14 is sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "aye" on Article 14 because the laws of Texas expressly forbid the State banks to lend money in excess of thirty per cent of its capital stock. The Governor of Texas should of all men obey the law, and the evidence shows that he induced the Temple State Bank which he dominated to loan him amounts far in excess of the amounts authorized by law.

BEE.

I vote "no" on Article 14 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that at the time the Governor borrowed money from the Temple State Bank an express agreement and understanding was entered into between him and the governing and managing officers of said bank, to the effect that such money was to be used in the purchase of cattle and feed to sustain them, and that at any time the bank desired its money, it should have the option and right to demand delivery to it of all of the cattle in the possession of the said James E. Ferguson or that they be speedily turned into cash to pay off the indebtedness of the Governor to the bank; that the cattle were far in excess of the amount so advanced to buy them and to buy feed for them and that, therefore, property of actual value existed more than sufficient to cover the full amount of said loan, and that such transactions were of the same character and kind as those in the handling of immense quantities of cotton in all parts of this State in the fall of each year, and in the handling of large quantities of grain and other agricultural products during practically all seasons of the year in this State; that such transactions are permitted by the banking laws of this State, and are not in violation of the spirit of the banking laws. This charge is not sustained by the proof.

CLARK.

The Chair: The Secretary will read Article 15. Let's have order.

The Secretary (Reading): "Article 15. The people of this State have adopted an organic law, the Constitution of Texas, equally binding upon its highest officials and its humblest citizens. Article 7 of that Constitution provides for the maintenance and support of the University of Texas. That provision is a direction given by the people themselves in their most solemn manner to those who represent them in office as to their duties.

"The Governor has vetoed or attempted to veto the entire appropriation for the University of Texas except the salary for one officer, thus, in effect, seeking to set aside that provision of the organic law requiring the support and maintenance of that institution, and to set aside the express will and judgment of the people of Texas. Though he had the legal power to veto, it was his sworn constitutional duty to again submit the question to the Legislature, which he had declared to the people of Texas that he would not do and it was only when a session had been called for his impeachment and it was apparent that a quorum of the House would attend to consider that question, and as a last extremity, he consented to call a session of the Legislature and submitted the question of appropriations for the University of Texas."

The Chair: Senators, the question is: Shall Article 15 be sustained? Those of you who find that said Article should be sustained will answer "aye" as your names are called; those who do not so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—6.

Buchanan of Scurry.	Johnson of Hall.
Caldwell.	Lattimore.
Decherd.	Strickland.

Nays—24.

Alderdice.	Hopkins.
Bailey.	Mudspeth.
Bee.	Johnston of Harris.
Clark.	McCollum.
Collins.	McNealus.
Dayton.	Parr.
Dean.	Page.
Floyd.	Robbins.
Gibson.	Smith.
Hall.	Suiter.
Harley.	Westbrook.
Henderson.	Woodward.

Present—Not Voting.

Buchanan of Bell.

The Chair: There being six "ayes" and twenty-four "noes," one present and not voting—does the Senator from Bell desire to vote?

Senator Buchanan of Bell: No, sir.

The Chair: There being six "ayes" and twenty-four "noes" and one not voting, the Article is not sustained.

Reason for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "no" on Article 15 because the Constitution gives the Governor the right of veto, and for a Legislature to make impeachable the exercise of that right would establish a precedent which would plague people of this State hereafter if differences arose between the Legislature and the Governor. I utterly disapprove the action of the Governor in vetoing this appropriation.

BEE.

I vote "no" on Article 15 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that the Governor did not violate his oath of office or seek to strike down or destroy any constitutional provision in this State, in vetoing the University appropriation bill enacted by the Thirty-fifth Legislature. Sections 10 and 11, of Article 7 of the Constitution of Texas, in unmistakable language, provides how the funds for the support and maintenance of the University shall be derived. There can be no question about the meaning of these sections. That the appropriation bill, in amount, was excessive I think there can be no dispute. It is a remarkable fact that the appropriation for stenographers at the University now is practically one-third of the appropriation twenty years ago. The growth of the attendance of students and the activities of the University have in no sense kept pace with the expenditure of the peoples' money on that institution. In vetoing that bill the Governor was plainly acting in the exercise of a constitutional discretion vested in him by that instrument, and can not be impeached for his acts done in these premises.

CLARK.

I want to incorporate in the Journal, as a matter of record, my reasons for voting against the above Article of Impeachment, this reason being that I do not believe the offense complained of would justify the severe punishment of removal from office. Although I feel that the Governor has misused the authority vested in him and has committed a gross error, it hardly justifies punishment above suggested.

ROBBINS.

Mr. President, the Governor has a right to veto any measure passed by the Legislature. Being in doubt as to what his course ultimately would have been as to this subject, I vote "no" on this charge.

ALDERDICE.

Mr. President, the Governor having called the Legislature to make an appropriation after having vetoed the first appropriation, I vote "no" on this Article.

McNEALUS.

Mr. President, I think the organic law of this State gives the Governor the right to veto any measure. I think his discretion was abused, but I think it would be a dangerous thing to impeach a man for doing a thing the Constitution gives him a right to do. Therefore, I vote "no."

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I vote "no" on this Article because the Constitution is not clear on this point.

FLOYD.

I vote "no" on Article 15, with this explanation: That while the vetoing of the appropriation for the University was unsound in policy and unwarranted in fact, yet the constitutional right of veto is of such high importance that any effort to abridge or curtail that right would set a precedent that would be dangerous, and would probably lead to graver dangers than the abuse of that right.

HARLEY.

I vote "no" on Article 15 for the reason that I believe that under the Constitution of this State the Governor has the right to veto any bill, while I think that the right was grossly abused in this instance and I urged the Governor not to make this fatal error before he did so. However, I

cannot vote to convict a man for exercising his constitutional right of veto.

HUDSPETH.

The Constitution of Texas gives the Governor of this State the veto power. This veto might not have been used discreetly, but since in the Governor's call of the Second Called Session of the Thirty-fifth Legislature he announced his intention to submit as subject matter the question of an appropriation for the support and maintenance of the State University, and since this has been done, and the original appropriation measure enacted into a law, I vote "no."

SMITH.

Senator Floyd: Mr. President, I will send up my reasons.

The Chair: Send them up.

The Chair: The Secretary will read Article 16.

The Secretary (Reading): "Article 16. Section 30a of Article 16 of the Constitution of Texas provides for a Board of Regents for the University of Texas, who shall hold office for six years, their terms expiring one-third every two years. The purpose of the people of Texas in the adoption of this provision was to take the University of Texas and all other such State institutions from the control of politics, and to keep the different boards from being under the control and domination of whomever might happen to be Governor. By Articles 2639 and 2640 of the Revised Civil Statutes of 1911 the Board of Regents are given the management of the affairs of the University of Texas with the discretion to remove members of the faculty when in their judgment it is deemed best. That it is the duty of the Governor, or any private citizen, to call attention of the Board of Regents to any mismanagement or improper practices at the University or any other State institutions is readily conceded. The people themselves have given to the Board of Regents by constitutional enactment, which has been confirmed by statutory law, the sole right to judge of the truth of the charges and the punishment to be inflicted against members of the faculty. The Board of Regents in their sphere are just as supreme as the Governor is in his, each having both constitutional and statutory duties to perform, and each being answerable to the peo-

ple of Texas. The Governor of Texas not only filed charges against certain members of the faculty, as he had a right to do, but after the members were exonerated by the Board of Regents he has sought to have the members of the faculty expelled from that institution because he desired it. He has thus sought to set aside the Constitution and law giving to the Board of Regents the discretion in matters of this kind and assert instead of their legal judgment his own autocratic will."

The Chair: Senators, the question is: Shall Article 16 be sustained? Those who find that said Article should be sustained will answer "aye" as your names are called; those who do not so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—22.

Alderdice.	Henderson.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	Lattimore.
Collins.	McNealus.
Dayton.	Page.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Harley.	Westbrook.

Nays—9.

Bailey.	Hudspeth.
Bee.	McCollum.
Clark.	Parr.
Hall.	Woodward.
Hopkins.	

The Chair: There being twenty-two "ayes" and nine "noes," Article 16 is sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "no" on Article 16 because while I believe the Governor was wrong in interfering with the management of the University and such interference should be condemned I do not consider it an impeachable offense.

BEE.

I vote "no" on Article 16 of the impeachment charges preferred against Governor James E. Ferguson, for the

reason that the testimony does not disclose that the Governor sought to remove any of the University Regents save and except Dr. S. J. Jones. He was informed, in an apparently reliable manner, at least in such a way that no one has appeared to contradict it, that Dr. Jones was no longer a resident of the State of Texas, but was living in the State of Virginia, and that he had wholly failed to attend the meetings of the Board of Regents. Under the provisions of our law under such circumstances the Governor had the right to remove such Regent. The evidence does not show that he removed any other Regent, and this article is not sustained by the proof.

The testimony of Mr. Brents, of Sherman, and Mr. Butler, of Clifton—Mr. Brents at present a member of the Board of Regents, and Mr. Butler formerly a member of such Board—was that before they were appointed as members of the Board of Regents of the State University, they fully acquainted the Governor with the fact that they were warm personal friends of Dr. Vinson's; that they desired him to succeed in the presidency of the University; that they desired to bring about an amicable understanding between Dr. Vinson and the Governor; that the Governor fully understood the closeness of their relations to Dr. Vinson and knowing this, he appointed them.

It has not been proven, as set out in this article, that the Governor in suggesting the removal of certain members of the faculty was seeking to assert his own autocratic will instead of the legal judgment of the Board of Regents, but that he was in the exercise of a duty imposed upon him by Article 24, of Section 4 of the Constitution of this State, which makes it his sworn and bounden duty to inquire into the management of each and every State institution and concern; to inquire into the expenditure of the State's money. In this inquiry the Governor discovered that Dr. A. Caswell Ellis was engaged in making large sums of money in supervising the erection and construction of certain portions of public school buildings in this State. It is the announced and pronounced purposes of the University of Texas to carry its benefits and advantages to the people. If Dr. Ellis is paid a

salary of \$3250 per year, as the testimony shows that he is, and his expenses in addition thereto in traveling over the State, then the carrying of the benefits of the University of Texas to the people ought to be accomplished without further cost out of their taxes. However, the facts disclose that Dr. Ellis is in the habit of charging one-half of one per cent of the entire cost of school buildings in this State in order to advise the local authorities as to the sanitary construction of same. In addition to this the evidence discloses that Dr. Ellis was engaged in writing a book, or had written a book, and at a time just in advance of the State Textbook selection, was quite active in securing endorsements from the people among whom he had been doing this private work, so that he might get, if possible, his book adopted by the State Textbook Board.

It has never been disputed that Professor James went to Fort Worth to deliver a lecture and took his wife along; that he rendered a bill for the expenses of himself and wife on that trip; that when the auditor refused to approve the bill Dr. Battle ordered it changed to read "Doctor James and assistant." Neither has it been disputed that Dr. Battle misled the Legislature and the Governor as to the itemization of the University appropriation bill passed by the Thirty-fourth Legislature, and that after promising solemnly to see that the itemization demanded by the State Democratic Convention be rigidly carried out, he set about to discover ways and means to avoid it and to destroy the itemization made by the Legislature. No justification has been offered for this conduct. No justification has been offered, nor any proof submitted, condoning the offense of charging the young men and young women who attended the University exorbitant prices for the books sold through the Co-operative Association at the University, which has accumulated such a large sum of money that it has built a large and commodious brick building in which to carry on its further activities. No denial has been made that the books there sold are sold at a very large profit to the men who wrote them, and these books in many instances being written by the professors of the University and out of the writing

of which they are continuously and constantly deriving a very large profit.

The only witness put on the stand by the House Managers, as to any of these matters, was Dr. Vinson, president of the University. He frankly admitted on the stand that he knew nothing about any of these practices save and except such as he had discovered by talking with other people; that as a personal matter he knew nothing about it. Neither Dr. A. Caswell Ellis, Professor James, Dr. Mather, Dr. W. H. Mayes, the head of the School of Journalism, nor any of the others about whom suggestions were made by the Governor, ever appeared on the witness stand or elsewhere to deny a single charge made against them. This is more than significant, it in effect becomes a confession of guilt and an admission of the truth of the charges made against them. There has been no evidence proving this charge.

CLARK.

Mr. President, believing that the Governor transcended his constitutional and statutory authority in intermeddling with the Board of Regents, I vote "aye."

COLLINS.

The Chair: The Secretary will read Article 17. Mr. Sergeant-at-Arms, let's have order, please.

The Secretary (Reading): "Article 17. Article 6027 of the Revised Civil Statutes of 1911 provides for the removal of members of the Board of Regents (among other officials) for 'good and sufficient cause.' The Governor has sought to remove members of the Board of Regents without such cause, has demanded resignations of others without reason, simply and only because he could not dictate to them as to how they should cast their votes in reference to matters arising before them. Such conduct was a clear violation of the law, and would serve to make inoperative the provision of the Constitution providing for six-year terms of office."

The Chair: Senators, the question is? Shall Article 17 be sustained? Those who find that said Article should be sustained will answer "aye" as your names are called; those who fail to so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—22.

Alderdice.	Henderson.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Collins.	Page.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Suiter.
Gibson.	Westbrook.

Nays—8.

Bailey.	Hudspeth.
Clark.	McCollum.
Hall.	Parr.
Hopkins.	Woodward.

Present—Not Voting.

Harley.

The Chair: The Senator from Wharton votes "no." There being twenty-two "ayes" and eight "noes," and one present and not voting, Article 17 is sustained.

Reason for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "aye" on Article 17 because I do not believe in the first place the Governor has any power to remove members of the Board of Regents of the University, and because I believe that he wrongfully exercised the power of removal, and further, appointed members of the Board of Regents for the purpose of placing the Board of Regents under his control in violation of the Constitution and the laws. The University of Texas is the just pride of the people of this State and its welfare and prosperity carries education to the young men and young women of this State who are not able to attend Eastern colleges. The University is the peer of any educational institution in the United States and its Board of Regents should be left uninfluenced by any consideration other than its success.

BEE.

I vote "no" on Article 17 of the articles of impeachment preferred

against the Governor, for the same reasons as set out with reference to Article 16.

CLARK.

Mr. President, the Attorney General of this State has held that the power of removal was not vested in the Governor in this instance, and I vote "aye."

DAYTON.

Mr. President, there being a plain statute which gives the Governor of the State the right to remove officers, I vote "no."

HUDSPETH.

Mr. President, there being a statute which gives the Governor of the State for good and sufficient cause power to remove officers, in my opinion, under that statute, he had a right to remove them for sufficient cause, but do not believe the record shows that there was cause, and therefore I vote "aye."

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The Chair: The Secretary will read Article 18.

The Secretary (Reading): "Article 18. The Governor of Texas has in public speech and published writing declared to the people of Texas that the faculty of the University are grafters and corruptionists, that they are liars, and that they are disloyal to their government. These are most serious charges. He made them first before the Legislature convened in January, 1917. The members of the faculty, in justice to themselves, to the institution which they served, and to the people of Texas, whose money supported and maintained that institution, applied to the Senate of Texas for a full and fair investigation. They sought in every way possible that the people of Texas might know every fact and circumstance connected with the management of the University of Texas. James E. Ferguson opposed that investigation and on the urging of his friends in the Senate that the controversy was ended, and that the charges would not be repeated, there was adopted the Dayton resolution by the Senate of Texas, which was for the purpose of settling the controversy. After the Legislature had adjourned and when investigation was no longer possible by the representatives of the people, the Governor again repeated the charges, becoming more and more vehement. If he

knew the charges to be true, it became his sworn duty to cause the parties involved to be prosecuted. If he did not know them to be true (and the Board of Regents, after a fair hearing found that they were not true), he is guilty of criminal libel and slander against the fair name of Texas and one of its most cherished institutions."

The Chair: Senators, the question is: Shall Article 18 be sustained? Those who find that said article should be sustained will answer "aye" as your names are called; those who do not so find, or fail to so find, will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—9.

Buchanan of Scurry.	Johnson of Hall.
Caldwell.	Lattimore.
Dean.	McNealus.
Decherd.	Smith.
Floyd.	

Nays—20.

Alderdice.	Hudspeth.
Bailey.	Johnston of Harris.
Bee.	McCollum.
Clark.	Page.
Collins.	Parr.
Gibson.	Robbins.
Hall.	Strickland.
Harley.	Sulter.
Henderson.	Westbrook.
Hopkins.	Woodward.

Present—Not Voting.

Buchanan of Bell. Dayton.

The Chair: There being 9 "ayes," 20 "noes," two present and not voting, the article is not sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "no" on Article 18. The Governor is unjustified in either public speech or writings attacking the character of men and making charges against them. I believe that the personnel of the members of the University Faculty is as high as that of any corresponding institution. However, the statements were made in anger and controversy and however reprehensible in my judgment are not impeachable.

BEE.

I vote "no" on Article 18 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that the testimony of the Governor on the stand fully discloses that up to the time of the parade of the students when they marched to the Capitol where the Board of Regents were in conference with the Governor, to make demands concerning the University appropriation bill, that what is called the Dayton Resolution had been fully lived up to and observed by the Governor; that this constituted a new offense and a subject not in contemplation of the Dayton Resolution, and one which was of necessity unknown to the authors and proponents of the Dayton Resolution. The proof shows that the president of the University permitted the students to assemble to pass resolutions on the date mentioned. Dr. Vinson stated he did not know that they were going to parade down town, but that if he had known of it he could not have stopped it. But, it is claimed by Counsel for the House Managers that Dr. Vinson did compel, in the Dally Texan, a newspaper published by the students of the University, an apology and retraction of certain insulting comments concerning the fact that some of those living in the University section had voted for a negro Governor of the State of Texas at the November election in 1916 in preference to Governor Ferguson. It seems to me that if in the one instance his power was sufficient to compel a retraction of such a statement, in the other it ought to have been sufficient to prevent a manifestation so lawless in character and so needless as this one was.

This article is not sustained by the proof.

CLARK.

I want to incorporate in the Journal, as a matter of record, my reasons for voting against the above Article of Impeachment, this reason being that I do not believe the offense complained of would justify the severe punishment of removal from office. Although I feel that the Governor has misused the authority vested in him and has committed a gross error, it hardly justifies punishment above suggested.

ROBBINS.

Mr. President, I regard the conduct of the Governor as set out in this article as highly improper, but do not believe that the article contains impeachable matter and therefore vote "no."

ALDERDICE.

Mr. President, I think the facts sustain the article, but I believe it is demurrable, and therefore I shall have to vote "no."

COLLINS.

Mr. President, believing that this is all wrong on both sides, that it grew out of personal matters between some of the members of the faculty and the Governor, I vote "no."

GIBSON.

Mr. President, believing that we can not and should not impeach any one for statements made in a public address, I vote "no."

HUDSPETH.

Mr. President, believing that, granting all the facts to be true, they do not constitute impeachable matter, I vote to sustain the demurrer. I think the conduct of the Governor under the circumstances was improper. Nevertheless, he was engaged at the time in political debate, and while I do not believe the statements he made were justified by facts, I vote "no."

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I vote "no" on Charge 18 because I don't believe it is an impeachable offense, though it is proven. I hereby sustain demurrer to this charge.

STRICKLAND.

The Chair: The Secretary will read Article 19.

The Secretary (reading): "Article 19. The Governor of Texas has sought to use the power of his office to control members of the Board of Regents. The chairman of the Board of Regents had become surety on a bail bond, the case pending in Jones County, Texas. The defendant escaped and judgment was secured on said bond in the sum of \$5000 against the principal and sureties, one of the sureties being Wilbur P. Allen, chairman of the Board of Regents of the University of Texas. He applied to the Governor of Texas for the remission of the judgment, which he would have had to pay, and with-

out good reason but only to influence his action as a member of the Board of Regents, James E. Ferguson as Governor remitted the forfeiture of \$5000, which, except for such action of James E. Ferguson, would have belonged to the people of Texas."

The Chair: Senators, the question is: Shall Article 19 be sustained? Those of you who find that said article should be sustained will answer "aye" as your names are called; those of you who fail to so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit:)

Yeas—21.

Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Collins.	Page.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Sulter.
Gibson.	Westbrook.
Henderson.	

Nays—10.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Clark.	McCollum.
Hall.	Parr.
Harley.	Woodward.

The Chair: There being 21 "ayes" and 10 "noes," the Article is sustained.

Reason for Vote.

(The following written reasons were sent up by members of the Court:)

I vote "aye" on Article 19 because I cannot believe that the forfeiture against Wilbur P. Allen would have been remitted except for the purpose of controlling his action on the Board of Regents. Judge Fiset's statement establishes the fact that Mr. Allen thought very highly of Dr. Vinson until the forfeiture was remitted and then Dr. Vinson was a failure. The circumstances sustained the belief that this forfeiture was remitted for a purpose.

BEE.

I vote "no" on Article 19 of the

impeachment charges preferred against the Governor, for the reason that the proof does not show that the remission of the forfeiture was made to Wilbur P. Allen for any improper purpose whatever. In fact the evidence wholly disproves this charge. Evidence was offered by the House Managers to show that Wilbur P. Allen changed his position with reference to Dr. Vinson's fitness for the presidency of the University of Texas immediately thereafter, but Dr. Vinson himself testified that in August, long after the remission of this forfeiture was made, Wilbur P. Allen was more enthusiastic over his qualifications for the presidency than he ever had been.

CLARK.

Mr. President, it being inconceivable to me why Mr. Allen should have been appointed except for one reason, and that is that he could be used, and in view of his statement to Mr. Fiset, and believing that he was used, I vote "aye."

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The Chair: The Secretary will read Article 20.

The Secretary (reading): "Article 20. That the said James E. Ferguson has sought to improperly influence the courts of Texas in matters in which he had a personal interest, first:

(a) After he had received from the Thirty-fifth Legislature at its Regular Session a bill passed by that Legislature for the increase of the salaries of certain judges, among others being those of the judges of the Supreme Court of Texas, he wrote them a letter calling their attention to certain provisions of the Constitution of Texas, and after they had ruled against him, vetoed the bill and gave as one of his reasons the fact that that court had allowed him no more than \$4,000 salary.

(b) That while the case of Mad-dox vs. Dayton Lumber Company was pending in the Court of Civil Appeals at Beaumont, and after a motion for rehearing had been overruled, and in a case in which the Governor was a party, and the decision of said court being against him and his associates, he wrote to one of the members of that court who had asked an endorsement by him, declining to endorse him; and

bitterly criticising the decision of that court in that case, and mailed copies of the letter to the other members of that court. That within a few days thereafter his attorneys filed a second motion for rehearing."

The Chair: Senators, the question is: Shall Article 20 be sustained? Those of you who find that said article should be sustained will answer "aye" as your names are called; those who fail to so find will answer "no." The Secretary will call the roll.

(The Secretary thereupon called the roll, the vote being as follows, to wit):

Yeas—16.

Alderdice.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Collins.	Robbins.
Dean.	Smith.
Flóyd.	Sulter.
Gibson.	Westbrook.

Nays—15.

Bailey.	Hopkins.
Bee.	Hudspeth.
Clark.	Johnson of Hall.
Dayton.	McCollum.
Decherd.	Parr.
Hall.	Strickland.
Harley.	Woodward.
Henderson.	

The Chair: There being 16 "ayes" and 15 "noes," the article is not sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court):

I vote "no" on Article 20. While I condemn the action of the Governor in writing the letters complained of to the Supreme Court and the Court of Civil Appeals at Beaumont, yet standing alone I do not believe such action is impeachable.

BEE.

I vote "no" on Article 20 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that in writing the letters that the Governor did write he was acting in the exercise of his rights. The Supreme Court of this State is not so distant from the people that they can not receive letters and sugges-

tions about authorities and provisions of the Constitution in cases which they have under consideration. This charge is wholly disproved.

CLARK.

Believing as I do that meddling with the courts is the most reprehensible conduct that a chief executive could be guilty of, I vote "aye."

COLLINS.

Believing that the courts can always take care of themselves and believing that any person has a right to write to the courts of this State, I vote "no."

DAYTON.

I desire to state that I believe that any citizen of the State, having a suit in court, even without the intervention of his attorney, has a right to write to the court, but do not believe that the Governor, while his case was pending before the Supreme Court, should write any such letter, which leads me to believe it was an attempt to influence them. I say frankly the same thing in regard to the case in the Court of Civil Appeals. I think the courts of this State should be held aloof from matters of this kind. The chief executive should not infringe upon the prerogatives of the courts. I regard it as a dangerous thing, and vote "aye."

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"I vote "no" on charge 20. I think the Governor's conduct highly improper, but not a matter for which he should be impeached.

STRICKLAND.

The Chair: The Secretary will read Article 21.

The Secretary (reading): "Article 21. That during the session of the Thirty-fifth Legislature James E. Ferguson, as Governor of Texas, submitted to the Senate of Texas the nomination of C. W. Woodman for confirmation as Labor Commissioner. The Senate of Texas refused to confirm the nomination. That the Governor then submitted to the Senate of Texas the name of Frank Swor, deputy under C. W. Woodman, which nomination was confirmed by the Senate. But that he has failed and refused to qualify, and more than a reasonable time has elapsed since his appointment, but he has continued to act as deputy, and the said C. W.

Woodman has continued to act as Commissioner. And knowing these facts, Governor Ferguson has failed and refused to make an appointment, and C. W. Woodman, although confirmation was refused him by the Senate of Texas many months ago, continued to hold the office and draw the pay. That it was the duty of the Governor, when the Senate refused to confirm C. W. Woodman, to make another nomination, and in case the nominee refused to qualify, that it was his duty to make another appointment; but that he has failed and refused to do so in defiance of the Constitution of Texas and his oath of office."

The Chair: Senators, the question is: Shall Article 21 be sustained? Those of you who find that said article should be sustained will answer "aye" as your names are called; those who do not so find will answer "no." The Secretary will call the roll.

Senator Bee: Mr. President.

The Chair: Senator Bee.

Senator Bee: I think it might be proper at this time for the Chair to admonish those in the Chamber to remain quiet until the Senate finishes.

The Chair: The Chair endorses the suggestion made by Senator Bee, and we admonish all in the Chamber and the galleries to be quiet until we finish the present work.

(The Secretary thereupon called the roll, the vote being as follows, to wit):

Yeas—2.

Buchanan of Bell. McNealus.

Nays—29.

Alderdice.	Hopkins.
Bailey.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	Lattimore.
Clark.	McCollum.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	

The Chair: There being 2 ayes

and 29 noes, the article is not sustained.

Reasons for Vote.

(The following written reasons were sent up by members of the Court):

I do not consider there is any merit in Article 21. While Mr. Woodman, ought to have vacated the office when Mr. Swor was removed, there is no evidence involving the Governor.

BEE.

I vote "no" on Article 21 of the impeachment charges preferred against Governor James E. Ferguson, for the reason that Frank Swor did not qualify in order to permit C. W. Woodman to carry out some matters of policy in the office. When those matters were arranged Swor did qualify. This charge is wholly unsustained.

CLARK.

I want to incorporate in the Journal, as a matter of record, my reasons for voting against the above Article of Impeachment, this reason being that I do not believe the offense complained of would justify the severe punishment of removal from office. Although I feel that the Governor has misused the authority vested in him and has committed a gross error, it hardly justifies punishment above suggested.

ROBBINS.

Believing that the part of this charge as to the Governor's action is not impeachable, I therefore vote "no."

SUITER.

I vote to sustain a demurrer to charge 21, not believing it an impeachable offense if proven.

STRICKLAND.

(Senator McCollum sent up the following reasons for his votes on all the articles):

In reaching conclusions, as well as rendering a verdict on the issues involved in the case now at its conclusion, it is deemed in order to present some statements to the voters of the Eleventh Senatorial District and to the people of the State as well, for while a State Senator's immediate duty is to his constituency, yet there are instances where the scope of that duty goes beyond local lines and is for the people at large,

notably in an instance where there is a challenge of conscience and duty as is the case now.

It is known to many that I entered upon my duty as a member of the Court of Impeachment with distinctly friendly feeling toward the Respondent and with earnest desire to see him have the fairest trial possible, and cherishing the hope that the developments of that trial would justify acquittal on all the counts. That statement may be made fully and freely, even though it was known to many that despite the sentiment of friendship and sympathy here alluded to I did not agree with the Respondent as to the veto of the University appropriation, to which feature of the case I shall make brief reference later on. All right thinking men who have ever had the experience of friendships that are pleasant and appreciated can readily understand the emotions that must have developed for more than one Senator no less than myself while sitting as a member of this Court. If reference is made here and now to these phases of the matter, it is simply to emphasize the situation that ensued while listening to the testimony, and in now reaching a conclusion as to a verdict, all men who have the right concepts of what not only personal friendship means, but the force of association with men in politics and in legislation, can analyze and understand this situation. It would have been one of the most grateful experiences of life to feel warranted at the close of this case, that is destined to be historical and far-reaching, and I hope wholesome in its influences and tendencies, to join in a verdict of acquittal on all the counts. As I understand the case now and in the light of conscience and judgment no less than duty, it is not my privilege to render such a verdict.

The issues and the principles that are involved in this case are to my mind among the gravest and most important that have been passed on by any body of Texans, whether sitting as jurors in our courts or as members of legislative courts. They involve civic duty and responsibility and they touch the principle of truth and righteousness with a force that is not to be ignored. It has been the good fortune and the pride of our people that for so many years with

one political party dominant during all those years in the conduct and control of State affairs; with that same political dominance and control going out into all the avenues of civic life, finding expression in all phases of local government, that that party (of which I have been privileged to be an active even if a modest member) has given State and people honest and efficient government and administration of public affairs. It has been our pride and good fortune that during all these years no instance, at least of material nature, has developed to challenge our boast, or to mar the prestige of the political element exercising control. Not until now has an instance arisen that compels us to give pause, to take cognizance of the gravity of the issues and decide on the measure and character of duty. It fell to the Senate of Texas, it was the fate of the men who compose that body, to face and deal with this issue and all that it involves, taking into account the cost and the culpability if there shall be failure or lack of readiness to meet duty as we see it. As the case appeals to and commands my judgment, there can be no doubt as to the responsibility and the duty of the Senate, and so believing I have voted to sustain more than one of the charges. In thus doing, I am trying to meet the full measure of responsibility to conscience, to judgment and to the interests of my people and State. I have refrained, and as I believe with good reason, from any effort to discuss the legal questions that find place in this case. There are able lawyers in the Senate who, it may be believed, are in all respects equipped to deal with these features of the matter, and to an extent that will no doubt meet the views of that element of our citizenship that attaches so much weight to phases of that nature. It has been my duty to consider in most careful manner what may be called the moral aspects of the case, issues that challenge the interest and attention of our people, and that enter into every phase of this most notable and deplorable episode. In considering these issues and what they may or do involve, one is bound to give thought to the needs and interests of tomorrow as well as of today. If there is any lesson in this case its

influences and its benefits should be as much for those who come after us as for those who are here now. Every juror, weighing and considering these questions, must have felt the force of this phase of the matter. The trial and its developments brought opportunity and duty to declare to our own people and to the people of other commonwealths, that in our state we feel more than ever that public office, is of the highest import and calls for performance of complete character, in line with the standards that we have set for civic and individual righteousness. It will be, or it should be known from this day, and let us hope for all time, that the man who seeks and who secures office in Texas is to measure up to and be judged by standards here alluded to—honest and faithful performance of public duty, mindful at all times and in all emergencies of the spirit and the letter of the Constitution and the laws that are based on that instrument. It is not too much to hope that this episode in our history, so deplorable and even tragic in many of its features, must have the wholesome and enduring influence here alluded to. If that shall be the outcome, it may be believed that every Senator who has had part in rendering this judgment, no matter how much of regret he may have felt at the necessity for such a duty, will feel that his verdict will have valuable fruitage for the people of this day and time, for those who come after us and for our State and institutions. Those who know me best at my home and in the district I have the honor to represent, will not need to be told that in reaching these conclusions there has been no recognition of any influence of extraneous nature, this despite the efforts that were made along that line, and which I have relegated to forgetfulness believing that in the main they were the results of thoughtlessness more than of intent that would give offense. I had no ambition, no incentive or purpose save to reach an honest judgment. It is well known that in my long life in the district I have sought public life or office so rarely that my life has been exceptional in that respect, and therefore there is no end of political or personal nature to be achieved, nor have I allowed myself to think for one

moment of what any man, any element of our citizenship may think or say of the course pursued. The only aspiration has been to do right, to follow duty as it manifested for me, and in thus doing to serve the best interests of State, of people and of society—and the results, whatever they may be, are a matter of absolutely no moment so far as they may or do touch me personally. Naturally there is some hope, that the people who have honored me by sending me to the Texas Senate may be able to approve, and in all sincerity, the course pursued. But if it is otherwise, so be it. The verdict and the lesson it holds and will hold are essential, as I honestly believe, for maintenance of the real interests of our people and State, no less than the prestige of the commonwealth.

There is no satisfaction, no gratification, in seeing any person subjected to suffering or humiliation, much less a friend, and I am not ashamed in closing this statement to give utterance to my profound sympathy for the man who has thus been made a means to an end that is justified on grounds of highest public policy and right thinking, and my one regret in rendering the verdict is that its terms can not be made, as to some important phases, less rigorous than the law seems to permit, for I have no desire to see the State or society exact more from the Respondent than may seem just and right, all the circumstances considered.

McCOLLUM.

The Chair: That concludes the articles. What is the pleasure of the Court?

Senator Bailey: Mr. President.

The Chair: The Senator from DeWitt.

Senator Bailey: I desire to send up the following simple resolution, and ask that it be read in the Court of Impeachment, and that it be reported to the Senate for such action as the Senate may see fit to take upon it, and that it lie upon the table of the Senate—of the Secretary of the Senate subject to be called up at the pleasure of the Senate.

The Chair: The Senator from DeWitt sends up the following simple resolution. Let the resolution be read.

The Secretary (Reading): "Court Resolution No. 1. Resolved, that on

Tuesday, September 24, 1917, at 12 o'clock m., the Senate of Texas, sitting as a Court of Impeachment, proceed to pronounce judgment in the matter of the impeachment of James E. Ferguson, Respondent, on such of the charges of impeachment preferred against him by the House of Representatives as have been sustained by the Senate, sitting as a Court of Impeachment, and that the Committee on Rules of the Senate prepare said judgment and submit the same to the Senate on Monday, September 23, 1917, after the morning call is concluded."

BAILEY.

Senator Decherd: Mr. President.

The Chair: Senator Decherd.

Senator Decherd: I wish to correct an error there in the dates. Monday will be the 24th instead of the 23rd, and Tuesday will be the 25th.

The Chair: Tuesday would be the 25th, it seems, Senator.

Senator Bailey: Well, I ask, sir, to be allowed to change that.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: May I ask a point of information?

The Chair: State the point.

Senator McNealus: In making this resolution, do I understand that there is nothing in this resolution which could be construed as deciding the judgment to be entered by the Court, in so far as sustaining the articles is concerned.

The Chair: No, the Court has already sustained the articles.

Senator McNealus: The Chair rules now that the articles have been sustained?

The Chair: The Chair announced, as each article was sustained, that it was sustained, as the votes were taken.

Senator McNealus: Then is that understood?

The Chair: The Chair does not conceive that it is necessary to announce again the result of the votes on the several articles. The results were announced as each article was voted on.

Senator McNealus: What I wish to know from the Chair is this,—if James E. Ferguson is now in the attitude of having been officially and judicially impeached.

The Chair: The House presented

articles of impeachment, and the Senate has sustained ten of the articles of impeachment, and that has already been declared by the Chair.

Senator McNealus: That means conviction, does it?

The Chair: Yes, sir, it does so, in the opinion of the Chair. The Senator from DeWitt asks that this resolution lie on the table or be reported to the Senate for action.

Senator Lattimore: Mr. President, I will ask that the Senator from DeWitt yield for a moment.

The Chair: Does the Senator from DeWitt yield to the Senator from Tarrant?

Senator Bailey: I yield.

Senator Lattimore: I understand from your resolution—

Senator Bailey: A little louder.

Senator Lattimore: Do you mean the regular Committee on Rules?

Senator Hudspeth: Do you mean the regular Committee on Rules?

Senator Bailey: I suggest that in the resolution. I thought we could adopt that in the Senate when we go back to the Senate. I am not particularly wedded to that. I didn't like to have the Committee on Civil Jurisprudence named because I am the Chairman and you are the Vice Chairman of that Committee, and I thought modesty might forbid that. (Laughter.)

The Chair: Let us have order.

Senator Bailey: But I have no objection.

Senator Lattimore: The information that I wanted from the Senator is, the Senate has appointed a special Committee on Rules, of which you are a member, and the Senate has a regular Committee on Rules.

Senator Bailey: I will state to the Senator from Tarrant that I had thought the work of that Committee was over when the Committee finished that work. I have no objection.

Senator Lattimore: You have reference to the regular Committee on Rules of the Senate, then?

Senator Bailey: Yes, sir. If the Senator desires to amend that, I have no objection.

Senator Gibson: Does the Senator from DeWitt yield?

The Chair: Does the Senator from DeWitt yield?

Senator Bailey: I yield.

Senator Gibson: Do I understand you, Senator, to move that this reso-

lution lie on the table? At this time I will say to the Senator from DeWitt that it is presented to the Court.

Senator Bailey: It is offered in open Court on the verdict that has been rendered here, and I ask that it be reported to the Senate, to be acted on by the Senate and let the Senate conclude.

Senator Gibson: I say, you ask that this resolution be reported to the Senate?

Senator Bailey: Yes, sir.

(The written resolution proposed by Senator Bailey, as finally sent up to the Chair, is as follows):

Resolved, That on Tuesday, September 25, 1917, at 12 o'clock m., the Senate of Texas, sitting as a Court of Impeachment, proceed to pronounce judgment in the matter of the impeachment of James E. Ferguson, upon the said James E. Ferguson, Respondent, on such of the charges of impeachment preferred against him by the House of Representatives as have been sustained by the Senate sitting as a Court of Impeachment, and that the Committee on Civil Jurisprudence of the Senate prepare said judgment and submit the same to the Senate on Monday, September 24, 1917, immediately after the morning call is concluded.

BAILEY.

Senator Hudspeth: Now, Mr. President, I move that the session of the Court do now adjourn.

The Chair: If the Senator from El Paso will yield, the Chair would suggest that the Chair has to pronounce the judgment on the vote.

Senator Bailey: Mr. President, I move that we recess until 10 o'clock Monday morning.

Senator Gibson: I will say to the Senator from DeWitt, if he will yield—

The Chair: Does the Senator yield?

Senator Bailey: Yes, sir.

Senator Gibson: That the report of the Senate has not yet been adopted.

Senator Bailey: Well, I move that the Court recess until 10 o'clock Monday morning, and I suppose we will go back immediately into the Senate.

Senator Hudspeth: That was really the motion I intended to make—that we recess until 10 o'clock Monday morning, and not adjourn.

The Chair: The Senator from El Paso then moves that the Court recess until 10 o'clock Monday morning. Those favoring the motion will signify it by saying "aye"; those opposed "no." The ayes have it, and the Court will recess until 10 o'clock Monday morning.

(The Court thereupon recessed until 10 o'clock Monday morning, September 24, 1917.)

In the Senate.

President Pro Tem. Dean in the Chair at 4:45 o'clock p. m.

Simple Resolution No. 23.

(By unanimous consent.)

Resolved, That on Tuesday, September 25, 1917, at 12 o'clock m., the Senate of Texas, sitting as a Court of Impeachment, proceed to pronounce judgment in the matter of the impeachment of James E. Ferguson, upon the said James E. Ferguson, Respondent, on such of the charges of impeachment preferred against him by the House of Representatives as have been sustained by the Senate, sitting as a Court of Impeachment, and that the Committee on Civil Jurisprudence of the Senate prepare said judgment and submit the same to the Senate on Monday, September 24, 1917, immediately after the morning call is concluded.

BAILEY.

The resolution was read and adopted.

Free Conference Committee Report on Senate Bill No. 8.

Hon. W. L. Dean, President Pro Tempore of the Senate, and Hon. F. O. Fuller, Speaker of the House of Representatives.

Sirs: Your Free Conference Committee selected and appointed to adjust the differences between the Senate and the House on Senate Bill No. 8, have had the same under consideration, and beg leave to report as follows, to wit:

We recommend that the Senate

concur in the House amendments to Senate Bill No. 8.

Respectfully submitted,
HENDERSON,
JOHNSTON of Harris,
BAILEY,
HARLEY,

On the part of the Senate.

HOLLAND,
JOHNSON,
FISHER,
MENDELL,
DUDLEY,

On the part of the House.

The foregoing report was laid before the Senate, read and on motion of Senator Henderson the same was adopted.

Adjournment.

At 5 o'clock p. m. the Senate, on motion of Senator Clark, adjourned until 10 o'clock Monday morning.

APPENDIX.

Committee Reports.

Committee Room,
Austin, Texas, Sept. 22, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 31, A bill to be entitled "An Act to amend Chapter 63, Local and Special Laws of the State of Texas passed at the Regular Session of the Thirty-fifth Legislature, which chapter is an Act to amend Section 2, Chapter 75, Special Laws of the Regular Session of the Thirtieth Legislature of 1907, being an Act to authorize, enable and permit the territory within the boundaries of the town of Estelline in Hall County, Texas, and other lands and territory adjacent thereto to incorporate an Independent School District for free school purposes only, known as Estelline Independent School District, with all the powers, rights and duties of independent school districts formed by incorporation of towns and villages for free school purposes, and declaring an emergency: The said act to be amended so as to change the boundaries thereof leaving certain sections of land out of the said Estel-

line Independent School District, and declaring an emergency."

Have had the same under consideration, and beg to report it back to the Senate, with the recommendation that it do pass and be not printed.

BEE, Chairman.

Committee Room,
Austin, Texas, Sept. 22, 1917.

Hon. W. L. Dean, President Pro Tempore of the Senate.

Sir: We, your Committee on Public Health, to whom was referred

S. B. No. 32, A bill to be entitled "An Act to regulate the sale of poisons, providing for marking and designating the packages or containers, and for the registration of the name and address of the purchaser, requiring that all records be kept in well bound books, separate from all other records to be designated 'Record of Poison Sales,' designating what poisons are meant, prescribing a penalty for violations of this Act, and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed, but printed in the Journal.

McNEALUS, Chairman.

By Smith.

S. B. No. 32.

A BILL To be entitled

An Act to regulate the sale of poisons, providing for marking and designating the packages or containers, and for the registration of the name and address of the purchaser, requiring that all records be kept in well bound books, separate from all other records to be designated "Record of Poison Sales;" designating what poisons are meant, prescribing a penalty for violations of this Act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Every person, firm or corporation in this State who shall sell any of the poisons hereinafter named shall be required: (a) To keep a permanently bound record in which shall be recorded at the time of the sale the name and address of

the purchaser, if known to the seller, and if unknown the sale shall not be made until the purchaser shall be identified by some person who is known to the seller, and the name and address of the person so identifying the purchaser shall be recorded with the name and address of the purchaser, and the name and quantity of the poison purchased and the purpose for which same is to be used, which record shall at all times be open to the inspection of all officers charged with the enforcement of law; (b) each package or container must be marked with a label containing the name and quantity of the poison purchased and the word "Poison" printed in red ink in a conspicuous place on the label, which label shall be placed on every package and container of poison sold.

Sec. 2. The following poisons shall be included within the provisions of this Act: Arsenic, cyanide of potassium, hydrocyanic acid, cocaine, morphine, strychnia, and all other poisonous vegetable alkaloids and their salts, oil of bitter almonds, containing hydrocyanic acid, opium and its preparations, except paregoric and such others as contain less than two grains of opium to the ounce, aconite, belladonna, cantharides, colchicum, conium, cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of tansy, veratrum viride and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloral hydrate, chloroform, corrosive sublimate, creosote, croton oil, mineral acids, oxalic acid, paris green, salts of lead, salts of zinc, white hellebore or any drug, chemical, or preparation which, according to standard works on medicine or materia medica, is liable to be destructive to adult human life in quantities of sixty grains or less.

Sec. 3. Any person who shall for himself or as the agent or employe of another person, firm or corporation in this State, sell, give or deliver to another without having complied with the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$500, and in addition shall be imprisoned in the county jail for not less than 20 days nor more than six months.

Sec. 4. The short time allotted

for the passage of bills in the present session and the fact that there is now no adequate law regulating the sale of poisons, and that human life is endangered by the reckless sale of poisons, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

EIGHTEENTH DAY.

Senate Chamber,
Austin, Texas.

Monday, Sept. 24, 1917.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Bee.	Hudspeth.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Clark.	Lattimore.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Floyd.	Strickland.
Gibson.	Sulter.
Henderson.	Westbrook.
Hopkins.	

Absent.

Alderdice.	Harley.
Bailey.	McCollum.
Caldwell.	McNealus.
Hall.	Woodward.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Excused.

Senators McCollum and McNealus were each excused for today on account of important business on motion of Senator Johnson of Hall.

Petitions and Memorials.

There were none today.